

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STANDARDS COMMITTEE

At: Committee Room 3, Civic Centre, Swansea.

On: Friday, 6 June 2014

Time: 9.30 am

AGENDA

	Page No.
1 To appoint a Chairman for the ensuing Municipal Year 2014 - 15.	
2 To appoint a Vice Chairman for the ensuing Municipal Year 2014 - 15.	
3 Apologies for Absence.	
4 To Receive Disclosures of Personal and Prejudicial Interest.	1 - 2
5 To Approve as a Correct Record the Minutes of the Standards Committee held on 4 April 2014.	3 - 7
6 Matters Arising from the Minutes (For Information).	
7 Update on Cases.	8
8 Exclusion of the Public.	9 - 12
9 Application for Dispensation.	13 - 14



Patrick Arran
Head of Legal, Democratic Services & Procurement
Friday 30 May 2014

Contact: Democratic Services - 636820

STANDARDS COMMITTEE (4)

Councillors

Labour Councillors: 3

J C Bayliss	Clive E Lloyd
Phil Downing	

Liberal Democrat Councillor: 1

L Graham Thomas	
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Name	Term of Office	Name	Term of Office
Jill Burgess	19.10.2012 to 18 10.2018	Clive Walton *	22.02.2005 to 21.02.2015
Meirion Howells *	01.08.2008 to 31.07.2016	Jennifer Gomes *	05.12.2008 to 04.12.2016
Adrian Novis *	22.02.2005 to 21.02.2015		

Others:

Executive	One copy
Patrick Arran	Head of Legal, Democratic Services & Procurement – Electronic
Tracey Meredith	Deputy Head of Legal, Democratic Services & Procurement
Huw Evans	Head of Democratic Services
Mike Hawes	Head of Financial Services
Janet Hooper	Directorate Lawyer
Democratic Services	1 Copy
Archives	

Total Copies Needed – 27**NOTE:**

1. * Denotes that the **period of office cannot be extended further.**
2. The **term of office for Independent Members** can be for not less than 4 nor more than 6 years. They can be reappointed for one further consecutive term but that term cannot be for more than 4 years.
3. **Members of the Local Authority** who are members of the Standards Committee will have a term of office of no more than 4 years or ending at the next ordinary local government election following their election, whichever is the shorter.
4. The Standards Committee **shall not sit if the Independent Members are outnumbered by Councillors.** A Councillor shall remove him/herself from the meeting in order for the business to be transacted.

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A "financial interest" is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STANDARDS COMMITTEE

HELD AT CIVIC CENTRE, SWANSEA ON FRIDAY, 4 APRIL 2014
AT 9.30 AM

PRESENT: C Walton (Vice – Chairman) presided

Councillors:-

C E Lloyd
L G Thomas

Independent Members:-

J Burgess M Howells
J Gomes

Officers: -

J Hooper – Directorate Lawyer
H Evans – Head of Democratic Services
J Tinker – Democratic Services Coordinator

71 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from the Chairman, Adrian Novis and Councillors R A Clay and P Downing.

72 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

Councillor L G Thomas declared a personal and prejudicial interest in – Minute No. “Application for Dispensation” as the applicant is a ward member and Leader of his Political Group.

73 **MINUTES.**

RESOLVED that the Minutes of the Standards Committee held on 21 February 2014 and the Special Standards Committee held on 18 March 2014, be accepted as correct records.

74 **MATTERS ARISING FROM THE MINUTES (FOR INFORMATION).**

None.

75 **UPDATE ON CASES.**

An update on the current breach of the Code of Conduct investigations was given.

76 **ANNUAL MEETING WITH POLITICAL GROUP LEADERS AND CHIEF EXECUTIVE.**

The Vice – Chair stated that the Chief Executive (Jack Straw) and the Leader of the Labour Political Group(also Leader of the Council, Councillor D Phillips) has been invited to the meeting in order to give their views regarding the role of the Standards Committee and how the work undertaken by this Committee could ensure high standards of behaviour. The Vice - Chairman explained that the role of the Standards Committee was both proactive and reactive and stated that it had been agreed that Annual Meetings be held with Group Leaders and the Chief Executive. The Vice - Chairman indicated that views were sought from the Chief Executive, regarding the following:

- How you see the role of the Standards Committee.
- Your understanding of this role.
- How could you help to promote standards and good governance?
- How do you see the future role of the Standards Committee?
- Your views regarding training in respect of the Code.
- How do you consider the dispute resolution process is working?
- Your views in respect of the Swansea Pledge.
- Your views regarding the possible merger of the Standards Committee with the Community / Town Council Standards Sub-Committee.
- Do you think that incorporating the Community Council would / could bring benefits?

The Vice – Chair indicated that the views of other Political Group Leaders had already been received.

The Chief Executive outlined the following in response:-

- Was aware of the Code of Conduct for Members and Code of Conduct for Officers since becoming Chief Executive 3 years ago, but did not directly get involved with individual issues.
- Considered that the Ombudsman has been inconsistent in his decision making.
- It was recognised that there were considerably less cases now being referred to the Ombudsman.
- It was suggested that the Standards Committee could be more proactive and one way to achieve this could be to consider the officers code of conduct, which as yet had not been the subject of an area of complaint.
- Another area the Standards Committee could become involved with would be to do more to promote the Council's values and be an advocate for good governance.
- Local Dispute Resolution needed constant attention.
- It was considered beneficial that all members including independent members undertake training and refresher courses as necessary.
- It was now seen that the signing of the Pledge had become political.
- It was considered advantageous if members of the Standards Committee attend Scrutiny Committees and that if Standards Committee Members looked at areas such as whether the correct procedure and methodology were in place in respect of membership, terms of reference, placing of items on Scrutiny agendas, etc
- No firm views were held in respect of having one encompassing committee.

The Chief Executive was thanked for his views.

The Vice – Chairman then welcomed Councillor D Phillips, Leader of the Council. He explained that he had also been invited to give his opinion regarding various aspects in relation to the potential role of the Standards Committee.

The Leader of the Labour Group and Leader of the Council outlined the following in respect of the views sought as indicated above:-

- It was recognised that there was a declining number of complaints and the local dispute resolution was one of the the main reasons for this.
- Disappointment was expressed that other parties had not signed up to the pledge.
- The wider role of the Standards Committee in being proactive and improving relationships was supported.
- It was noted that this local dispute resolution practice in this authority had been adopted by the Ombudsman as good practice across the rest of Wales.

- It was recognised that decisions of the Ombudsman were not consistent.
- It was considered that professional behaviour and the Nolan Principles were important.
- The possibility of promoting best practice e.g. declaration of interest, could be developed across other public services.
- It was considered to be more effective if the Standards Committee remain separate to that of the Community/ Town Council Standards Sub Committee.
- Strong views were expressed regarding training and it was stated that this was compulsory for Cabinet Members and this should be reviewed regularly.
- It was suggested that the local dispute resolution be adopted by Community Councils and that Standards Committee may wish to investigate how the various Community Councils operate and if correct procedures are adhered to.
- It was suggested that it may be beneficial if the Standards Committee be renamed Standards Board.
- Attending Scrutiny Committee would be encouraged to consider if good practice is being undertaken.
- It was suggested that this Standards Committee meet with other authorities to assist and improve their role.

The Leader of the Council was thanked for his views.

The Vice – Chairman indicated that a report on all of these discussions would be submitted to a future meeting. It was also suggested that the Chair of a Regulatory Committee and Chair of Scrutiny be invited to a future meeting for their views.

77 **EXCLUSION OF THE PUBLIC.**

The Committee were requested to exclude the public during consideration of the item of business identified in the recommendation of the report on the grounds that it involves the likely disclosure of exempt information as set out in the Exclusion paragraph of Schedule 12A of the Local Government (Access to Information) (Variation) (Wales) Order 2007, relevant to the items of business as set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the items of business where the Public Interest Test is relevant as set out in the report.

RESOLVED that the public be excluded for the following item of business.

(CLOSED SESSION)

78 **APPLICATION FOR DISPENSATION.**

The Monitoring Officer's submitted a report which sought consideration of an application from Councillor C A Holley under the Standards (Grant of Dispensation) (Wales) Regulations 2001.

RESOLVED that the Standards Committee grant Councillor C A Holley dispensation under paragraphs 2 (d) and 2 (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as follows:

- 1) To stay, speak and vote on any item relating to Social Services matters general staff employment, on budget matters and other Social Services matters other than those that directly affect his daughter by specific reference to her post;
- 2) As a Local Authority appointed Governor at Burlais School, Councillor Holley can stay, speak and vote on Education matters without requiring a dispensation but In relation to business directly affecting Burlais School, where the exemption from having a Prejudicial Interest does not apply i.e. where the business relates to the determination of any approval, consent, licence, permission or registration, Councillor Holley has dispensation to remain and speak(but not vote).

The meeting ended at 11.00 am

CHAIR

Breach of Code of Conduct**Ombudsman & Standards Committee Complaints 6 June 2014**

Name & Address	Date received	Ombudsman Reference	Date opened and file Ref.	Description	Current Status	Update
City and County of Swansea	21/11/2013	201304587	27/11/2013 SC1-00193784	Alleged Breach of the Code	Ombudsman investigating, per letter dated 3 December 2013	Ombudsman still investigating, per verbal update from Ombudsman's office 28/03/2014

Report of the Head of Legal, Democratic Services & Procurement

Standards Committee – 4 April 2014

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item Nos.	Relevant Paragraphs in Schedule 12A
	8	12, 13
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal, Democratic Services and Procurement (Monitoring Officer)	

1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, **Council / Cabinet / Committee** will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of

exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

3. Financial Implications

- 3.1 There are no financial implications associated with this report.

4. Legal Implications

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
 - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
 - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
 - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

Background Papers: None

Appendices: Appendix A - Public Interest Test

Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
12	Information relating to a particular individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <ul style="list-style-type: none"> a) Whilst he was mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts. <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
15	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the

	Crown and employees of, or office holders under, the authority.
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
	No public interest test.
17	Information which reveals that the authority proposes: (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
18	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
	The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.
18c	The deliberations of a Standards Committee or of a sub committee of a Standards Committee established under the provisions of the Local Government Act 2000 in reaching any finding of a matter referred to it.

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