

# CITY AND COUNTY OF SWANSEA

## NOTICE OF MEETING

You are invited to attend a Special Meeting of the

## SCRUTINY PROGRAMME COMMITTEE

**At:** Committee Room 1, Civic Centre, Swansea

**On:** Wednesday, 28 January 2015

**Time:** 12.30 pm

## AGENDA

Page No.

- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal & Prejudicial Interest.** 1 - 2
- 3 **Prohibition of Whipped Votes and Declaration of Party Whips.**
- 4 **Minutes:** 3 - 11  
To approve and sign as a correct record the Minutes of the Special Scrutiny Programme Committee held on:
  - a. 26 November, 2014; and
  - b. 8 December, 2014.
- 5 **Exclusion of the Public.** 12 - 15

### CLOSED SESSION

- 6 **To Determine Arrangements for Future Evidence Gathering (Verbal Discussion).**

### OPEN SESSION

- 7 **To Consider any Outstanding Questions the Committee May Wish to Ask (Verbal Discussion).**
- 8 **Date of Next Meeting.**

**Connect with Scrutiny:**

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**Patrick Arran**

**Head of Legal, Democratic Services & Procurement**

**Thursday, 22 January, 2015**

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**Contact: Democratic Services - Tel: (01792) 637292**

## SCRUTINY PROGRAMME COMMITTEE (16)

### Labour Councillors: 11

R A Clay	P Downing
A M Cook	T J Hennegan
D W Cole	A J Jones
S E Crouch	R V Smith
J P Curtice	G J Tanner
N J Davies	

### Liberal Democrat Councillors: 3

M H Jones	P M Meara
J W Jones	

### Independent Councillor: 1

E W Fitzgerald	
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### Conservative Councillor: 1

A C S Colburn	
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### Co-opted Members:

Name	Term of Office
David Anderson-Thomas	14.03.2014 – 13.03.2017
Sarah Joiner	08.07.2013 – 07.07.2017

### Officers:

Dean Taylor	Director of Corporate Services
Lee Wenham	Head of Marketing, Communications & Scrutiny
Dave Mckenna	Overview & Scrutiny Manager
Brij Madahar	Overview & Scrutiny Coordinator
Democratic Services	
Nigel Havard	Legal
Archives	

Email:

Executive Board	
Cabinet Members	
Leaders of Opposition Groups	
Carl Billingsley	
Chair of Standards Committee	
Chair of Audit Committee	
Chair of Democratic Services Committee	

**Total Copies: 30**

## 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 SPECIAL SCRUTINY PROGRAMME COMMITTEE

HELD AT COMMITTEE ROOM 2, CIVIC CENTRE, SWANSEA ON  
WEDNESDAY, 26 NOVEMBER 2014 AT 5.00 PM

**PRESENT:** Councillor R V Smith (Chair) Presided

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
A M Cook	S E Crouch	T J Hennegan
A C S Colburn	N J Davies	P M Meara
D W Cole	E W Fitzgerald	G J Tanner
J P Curtice	T J Hennegan	

#### **Co-opted Members**

D Anderson-Thomas.

#### **Officers:**

D Smith	- Directorate Lawyer
B Madahar	- Overview and Scrutiny Co-ordinator
S Woon	- Democratic Services Officer
P Holmes	- Head of Economic Regeneration & Planning
E Jones	- Principal Planner, Regeneration
S Malough	- Traveller Liaison Officer

#### 110 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D W Cole, P Downing and Mrs S Joiner.

#### 111 **DISCLOSURES OF PERSONAL & PREJUDICIAL INTEREST**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests was declared:

Councillor A M Cook - personal - Minute No. 114 - Ward Member from Cockett - one of the wards that was shortlisted.

Councillor J P Curtice - personal - Minute No. 114 – Two of the proposed sites in my ward.

Councillor R A Clay – personal – Minute No. 114 – Llansamlet Ward Councillor shortlisted site.

112 **PROHIBITION OF WHIPPED VOTES AND DECLARATION OF PARTY WHIPS**

In accordance with the Local Government (Wales) Measure 2011, no declarations of Whipped Votes or Party Whips were declared.

113 **MINUTES**

**RESOLVED** that:

- a) the minutes of the Special Scrutiny Programme Committee held on 10 September, 2014 be accepted as a correct record;
- b) An amendment be made to minute no. 130 (Evidence Session: Gypsy & Traveller Site Search Process) which includes a summary of the evidence provided by Councillor P M Matthews. During Councillor P M Matthews evidence, she referred to a letter sent to the former Councillor John Hague relating to the Gypsy Traveller Task and Finish Group. A copy of the letter (dated 26 March, 2012) was subsequently provided to the Committee and was included in the record of evidence. The minutes however refer to Martin Saville as the author of the letter whereas the letter was sent by Reena Owen. The amendment to minute 130 is therefore to delete reference to Martin Saville and replace with Reena Owen; and
- c) The Chair formally write to Councillor N S Bradley inviting him to appear before the Special Scrutiny Programme Committee scheduled on Monday, 8 December, 2014.

[Note: In response to a question regarding invitation to Councillor N S Bradley to attend the Committee, the Scrutiny Co-ordinator confirmed that no response had been received to date from Councillor N S Bradley.]

114 **EVIDENCE SESSION: SCRUTINY OF GYPSY & TRAVELLER SITE SEARCH PROCESS**

The Chair advised that the evidence session would focus on:

- a) discussion of the Gypsy and Traveller Consultation Process; and
  - b) the Impact of Economic Regeneration/Development Plans on Site Selection.
- a) The following issues were discussed by the committee:
- Extent of consultation with the Gypsy & Traveller community and at what point information about shortlisted sites was shared
  - The views of the Gypsy & Traveller community about preference for Llansamlet and at what point objections about other sites (e.g. Proposed Cemetery, Gorseinon) were known
  - Purpose of the 'confidential' meeting between some members and officers with Gypsy & Traveller families, held on 7 Sep 2012
  - The point of the process / consultation when Gypsy & Traveller views about locations were very clear.
  - Absence of consultation with wider Gypsy & Traveller community over the broader issue and whether that demonstrated confusion about purpose of site search
  - No written process for consultation except following Welsh Government guidance

- Little emphasis in consultation given to views about / need for a transit site as well as permanent
- Process / consultation process caused tensions in communities – not encouraging / building community cohesion
- How the authority balanced meeting the council's legal obligations with addressing the specific Llansamlet problem / meeting (changing) needs of Gypsy & Traveller community – conflicting messages / advice about this emerged during the process

The Principal Planner, Regeneration, referred to the instruction from the Gypsy Traveller Task and Finish Group session on 8 March, 2012, for the Council to continue dialogue with the Gypsy Traveller Families regarding their housing needs.

In line with Welsh Government guidance and given the fact that Gypsy Traveller Families are generally considered to be hard to reach group, it was deemed necessary that face to face meetings would take place. These sessions had the sole purpose of informing the families of the ongoing assessment work, highlight the identity of the 5 recommended sites, to ascertain their existing requirements and to discuss ongoing day to day issues that they were encountering. Discussions from these sessions were noted for information purposes only and were fully minuted.

In response to Member questions, the Principal Planner, Regeneration stated that:

1. Separate sessions were held with the families during September 2012 and subsequently repeated during July 2013 in order to retest the initial feedback provided
2. Comments made by the families at these sessions were noted for information purposes only. It was gathered together in order to inform the Senior Officer Panel and subsequently included within the Report to Council during October 2013. No assurances were provided on individual sites. The only assurance given was that the Authority would provide appropriate site provision to cater for the identified need. No additional information was requested or provided.
3. Comments were received from the settled community as well as from the Gypsy Traveller Families as part of the formal consultation exercise that took place between December 2012 and March 2013. None of the views/comments were weighted.
4. Officers (in particular the Liaison Officer) are involved in constant dialogue, with the Gypsy Traveller community as their requirements are constantly changing.
5. Any discussions with Gypsy Traveller Families prior to 2012 were related to needs and not to individual sites. These needs included plot, family size or pre-requisites, cultural requirements etc.
6. Information regarding inhabiting consecrated land had come forward, but was not confirmed prior to the Senior Officer Panel that took place after the Task and Finish Group had concluded their work.
7. The meeting held on 7 September 2012, was not a formal Task and Finish Group session (Task and Finish Group advised that a meeting should take place). It was attended by Councillor N S Bradley (Chair) and Councillor J A Raynor (Vice Chair). The people invited to attend that meeting reflected the families who had needs at that particular time. The agenda was flexible in terms of timings to allow the families to attend.



8. The consultation with Gypsy Traveller Families, between September 2012 and July 2013, was not 'written out' as such. The literature in the guidance from the Welsh Government stated that Authorities 'go out' and consult with families with needs at the time.
9. As an Authority we did everything we could to consult and engage. With requirements constantly changing, wider Gypsy Traveller Families may not have been identified (a large proportion reside in bricks and mortar and have no requirements).
10. His understanding of 'need' included need at the time (immediate), future need and growth. Need had been identified by the Accommodation Needs Assessment which had been undertaken by Housing colleagues.
11. There was no clear identified need for transit site provision.
12. Informal discussions on site with Gypsy Traveller Families had indicated that they did not want to share a site with anyone other than extended family.
13. The process allowed for flexibility in so far as a number of sites could be considered.
14. Comments from Gypsy Traveller Families suggested that they would strongly prefer another site in Llansamlet and would not consider the site in Gorseion. This preference was reflected in the Report to Council in 2013. They did not say they would not move off the Park and Ride site.
15. Following the election of the new administration site visits were undertaken in July 2012. Prior to this, Officers outlined the process and rationale in arriving at the 5 recommended sites.
16. Officers undertook the process consistently within Welsh Government guidance. The approach looked across the County and outputs came out from the process in transparent way which was bounded by Unitary Development Plan (UDP) policies.
17. The process allowed for a private developer to come forward at any point but the need would be in line with the Accommodation Needs Assessment and the policy requirements of the UDP.

The Lawyer advising the Committee stated that a second site would not necessarily result in a successful Court eviction as they have right to a family life under Article 8 of the Human Rights Act, in respect of children in schools, settled lifestyles.

b) The following issues were discussed by the committee:

- Rationale for following Unitary Development Plan
- Whether process should have followed Unitary Development Plan or could have been coterminous with the Local Development Plan and conflict / confusion between the two
- General lack of clarity about how the two strategic plans worked together – confusion within communities
- Economic development input not being considered about certain sites (e.g. Peniel Green Road)
- Impact of Gypsy & Traveller sites / occupation of land on businesses in the vicinity / land values
- Whether the economic development section consulted with or had feedback from local businesses

In response to Member questions, the Head of Economic Regeneration and Planning stated that:

1. The whole strategic approach was based on the UDP.
2. The Council's cross disciplinary working was strong, thorough and robust.
3. Comments were considered and taken on board as part of the consultation process.
4. Once sites were identified following the assessment process, they could not be removed until a certain point in time.
5. Officers followed the Terms of Reference set in 2010. Process run its course, concerns about certain sites were reflected.
6. Impact was looked at in terms of economic regeneration importance and comments were provided by economic development officers.
8. The terms of reference for site identification were land for housing and council owned land.
9. He was not aware of two sites at Peniel Road, Llansamlet, however the boundary of the site covered those areas. The wider area came from consultation.
10. Officers responding from an economic development perspective did not take into account any consultation outside department.
11. It was reasonable to undertake the process through the UDP as this provided a mechanism to deliver a site quickly. The end result would be to obtain contributions from the Welsh Government. The contribution from the Welsh Government was reducing and the White Paper 2016, will not give authorities a choice and funds will be limited to each authority.
12. He was not aware of existing businesses or new business being put off expanding by the prospect of a Gypsy Traveller Site. However, there are potential nuisance issues which would apply to all sites.

115 **TIMETABLE OF WORK**

The Scrutiny Co-ordinator referred to the Special Scrutiny Programme Meeting scheduled for 8 December, 2014 to discuss the role of the Housing Needs Assessment in the process.

As requested by the Committee, further communication would be made with Councillor N S Bradley with an invite for him to attend the Special Meeting on 8 December, 2014.

The date for the final evidence session with the Chief Executive, Phil Roberts and Patrick Arran, was yet to be confirmed.

116 **DATE OF NEXT MEETING - 8 DECEMBER 2014 (5.00 PM)**

The date and time of the next meeting was noted.

The meeting ended at 6.38 pm

**CHAIR**

# **CITY AND COUNTY OF SWANSEA**

## **MINUTES OF THE SCRUTINY PROGRAMME COMMITTEE**

**HELD AT COMMITTEE ROOM 1, CIVIC CENTRE ON MONDAY, 8  
DECEMBER 2014 AT 5.00 PM**

**PRESENT:** Councillor R V Smith (Chair) Presided

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
A M Cook	P Downing	R A Clay
A C S Colburn	E W Fitzgerald	S E Crouch
D W Cole	T J Hennegan	G J Tanner
J P Curtice	P M Meara	

117 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors N J Davies, A J Jones and S Joiner.

118 **DISCLOSURES OF PERSONAL & PREJUDICIAL INTEREST.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests was declared:

Councillor A M Cook - personal - Minute No. 120 - Ward Member from Cockett - one of the wards that was shortlisted.

Councillor J P Curtice - personal - Minute No. 120 - Ward Member from Penyrheol which abuts two of the five previously nominated sites.

Councillor D W Cole - personal - Minute No. 120 - Ward Member from Penyrheol which abuts two of the five previously nominated sites.

Councillor R A Clay – personal – Minute No. 120 – Llansamlet Ward Councillor.

119 **PROHIBITION OF WHIPPED VOTES AND DECLARATION OF PARTY WHIPS.**

In accordance with the Local Government (Wales) Measure 2011, no declarations of Whipped Votes or Party Whips were declared.

120 **MATTERS ARISING.**

The Chair referred to the Minutes of the Special Scrutiny Programme Committee held on 26 November, 2014. Reference was made to the amendment to minute no. 130 (Evidence Session: Gypsy & Traveller Site Search Process).

In response to a Member question, the Democratic Services Officer stated that the revised evidence pack had been re-published and the minutes of 26 November, 2014, would reflect the amendment made to the minutes of the 23 April meeting.

The Chair updated the Committee in relation to the invitation to Councillor N S Bradley to attend the meeting. Councillor N S Bradley had conveyed his apologies due to sickness. The Scrutiny Co-ordinator confirmed that he would contact Councillor N S Bradley to ascertain his availability to attend a future meeting

121 **EVIDENCE SESSION: SCRUTINY OF GYPSY & TRAVELLER SITE SEARCH PROCESS:**

The Chair advised that the evidence session would focus on discussion of the role of the Housing Needs Assessment in the process.

The Committee was interested in the use of assessments as a basis for decision making about the long term, how and when needs were calculated and the value of the Housing Needs Assessment to the process.

The following Officers were present to assist the Committee for the discussion:

- Peter Williams (Strategic Planning and Enabling Manager)
- Lee Morgan (Head of Housing)
- David Evans (Housing Business Manager)

The Strategic Planning and Enabling Manager highlighted the methodology that was used in determining the Housing Needs Assessment (HNA). A corporate group was established comprising of those officers from across the authority who had contact with Gypsy Travellers in Swansea. The group included the Education Officer for Gypsy Travellers and the Gypsy Liaison Officer. The aim of the Group was to identify all Gypsy Travellers known to be residing within Swansea to get understanding on where they were located.

Welsh Government Guidance was used for undertaking Needs Assessments which suggested the methodology to be used by local authorities when doing assessment.

Once the Group identified locations it also tried to identify showmen (associated with the circus) and the Showmen's Guild was also consulted. Welsh Government Guidance was used by the group to develop the questionnaire and officers from the housing department visited those gypsy travellers and showmen which could be located, sometimes with the assistance of the Gypsy Traveller Education Officer. Questionnaires were completed face to face and in some areas all households identified were interviewed, but in some cases officer spoke with representatives for a few. The needs of those Gypsy Travellers in bricks and mortar accommodation were also taken into account identified using information from housing waiting list and information from the gypsy & traveller community. They were contacted in writing and visits were made where necessary. The results were translated into the number of caravans, and into pitch requirements and sizes, again using Welsh Government guidance.

The HNA established both immediate need and future need. 11 Gypsy Traveller Families were identified for immediate need. The Welsh Government Guidance also required that future need be identified in respect of teenagers living with parents in caravans who would be turning 18 within the next 5 years and possibly leaving home to set up individual households. 28 was the highest possible number identified, however in reality some teenage travellers would probably elect to stay in their parents caravan when they turned 18 and some would probably move away from Swansea. It was confirmed that work on the HNA was undertaken in 2012 and 2013 (March to July), although one was undertaken, though not as detailed, in 2009.

Work focussed on mainly permanent sites but questions were asked during the HNA process about needs in relation to transit sites.

In response to Member questions, the Strategic Planning and Enabling Manager stated that:

1. The HNA was effectively a snapshot of needs however it was based on work undertaken over a period of time (not 1 day). One Officer was tasked with the HNA to ensure consistency.
2. The guidance was prescriptive. The survey carried out benefitted from the involvement of the Gypsy Traveller Education Officer and Gypsy Traveller Liaison Officer who had a good relationship with families.
4. The methodology used to carry out the HNA (including the survey) was checked with the Welsh Government Senior Policy and Strategy Manager for Gypsy Traveller Families who was content with process the Authority used.
5. There was a requirement to look at Gypsy Travellers who were living in bricks and mortar accommodation as they may wish to move back into caravans at some time in the future.
6. Gypsy Travellers enjoy protected characteristics under the Equality Act 2010, particularly in relation to their rights to be accommodated with extended family members. The Council's Equalities Section was consulted on the process used.
7. The questionnaires used in the HNA undertaken in 2009, 2012 and 2013 have been modified over time.
8. New guidance on undertaking HNA will be produced by February 2016. The new guidance states that HNA should be undertaken at least every 5 years. In future HNA will also have to be approved by the Welsh Government.
9. The HNA was based on contact with all the families which the council was aware of at the time. Consultation was carried out with 5 Gypsy & Traveller families and with the Showmen's Guild.
10. As part of the HNA Gypsy Traveller families residing on private land were also interviewed, not just those linked to the Park & Ride Site.
11. There was some confusion in reporting the number of pitches required which was as a result of double counting (due to 1 family moving from the tolerated site onto the un-tolerated site). In relation to reporting in September 2013 the correct figure was 10 not 11 and this was reported to Council on 21 October 2013.
12. The current pitch requirement reported in October 2013 for Showmen was nil as the preference for most of them was to stay where they were.
13. The role of the HNA was to identify the number of pitches required. How the authority responded to this information was the responsibility of others involved in the site selection process.

14. Confident that HNA provided an accurate picture of current and future needs thought can never be 100%, for example it is difficult to identify Gypsy Travellers in bricks and mortar accommodation.
15. The Gypsy Travellers interviewed indicated that they wanted to stay where they were. The residents of the Ty Gywn site indicated that they would like a transit pitch for visitors at certain times of the year. People who benefit from transit site do not live in Swansea all year. There would be only a limited amount of people for short period of time who would benefit from a transit site.
16. The HNA is carried out when requested and is not updated on a weekly or ongoing basis. Needs may change and it may be something for the Traveller Liaison Officer to keep an eye on.
17. The process was robust in capturing the needs of the settled Gypsy Traveller community but the transit population is not going to be picked up necessarily.
18. The Welsh Government Senior Gypsy Traveller Policy Officer was consulted regarding the implication of any offers of accommodation made and rejected. The WG stated that the most important point to consider was whether offers could be considered 'reasonable' or not. The Council's Equalities Unit were consulted who detailed the Authority's obligations under the 2010 Equalities Act. Gypsy Traveller Families enjoy protected characteristics in so far as the importance of the extended family. Social and cultural issues would need to be considered when making any offer of accommodation, and therefore any offer of accommodation rejected would not necessarily allow the council to then disregard their needs. Ultimately, efforts should be made to find pitches that will enable the family to stay together. It was noted that guidance did not help on this point and was a grey area.

The chairman thanked the officers for their attendance.

## 122 **TIMETABLE OF WORK.**

The Scrutiny Co-ordinator advised that the date of the next meeting was to be confirmed in order to hear from Councillor N S Bradley and for session with the Chief Executive, Director – Place, and Head of Legal, Democratic Services & Procurement, which would be in the New Year. This would represent the conclusion of evidence gathering unless further information subsequently becomes necessary.

The meeting ended at 5.59 pm

**CHAIR**

# Agenda Item 5

## Report of the Head of Legal, Democratic Services & Procurement

### Special Scrutiny Programme Committee – 28 January 2015

#### EXCLUSION OF THE PUBLIC

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Reason for Decision:</b>	To comply with legislation.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	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.	
	<b>Item No.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	6	13
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	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, the 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
<b>12</b>	<b>Information relating to a particular individual.</b>
	<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>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<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>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<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> <p><b>a)</b> 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</p> <p><b>b)</b> Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <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>

No.	Relevant Paragraphs in Schedule 12A
15	<p><b>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.</b></p>
	<p>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.</p>
16	<p><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></p>
	<p>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.</p>
18	<p><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></p>
	<p>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.</p>