

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

APPEALS & AWARDS COMMITTEE

At: Councillor Meeting Room 235, Guildhall, Swansea

On: Tuesday, 26 April 2016

Time: 9.30 am

Chair: Councillor Des Thomas

Membership:

Councillors: J E Burtonshaw, J P Curtice, J A Hale, R D Lewis, K E Marsh and H M Morris

AGENDA

Page No.

- 1 Apologies for Absence.
- 2 To receive Disclosures of Personal and Prejudicial Interests from Members.
www.swansea.gov.uk/disclosuresofinterests
- 3 **Minutes:** 1 - 3
To approve and sign the Minutes of the previous meeting(s) as a correct record.
- 4 **Exclusion of the Public.** 4 - 7
- 5 **Allegation of Bullying and Harassment.**



Patrick Arran
Head of Legal and Democratic Services
Wednesday, 20 April 2016

Contact: Democratic Services – (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE MEETING OF THE APPEALS AND AWARDS COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON TUESDAY 8
SEPTEMBER 2015 AT 9.30 A.M.

PRESENT:

Councillor(s):

J E Burtonshaw
J P Curtice

Councillor(s):

K E Marsh

Councillor(s):

D W W Thomas

Officers:

S Williams - Principal Lawyer
S Holland - Lawyer
K Thomas - School Governor Unit Manager
J Parkhouse - Democratic Services Officer

1. **TO ELECT A CHAIR FOR THE 2015-2016 MUNICIPAL YEAR**

RESOLVED that Councillor D W W Thomas be elected Chair for the 2015-2016 Municipal Year.

(Councillor D W W Thomas presided)

2. **TO ELECT A VICE-CHAIR FOR THE 2015-2016 MUNICIPAL YEAR**

RESOLVED that Councillor J E Burtonshaw be elected Vice-Chair for the 2015-2016 Municipal Year.

3. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors J A Hale, R D Lewis and H M Morris.

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

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

Councillor K E Marsh - Minute 11 - School Transport Appeal - Governor at Bishopston Comprehensive School - personal.

Minutes of the Meeting of the Appeals and Awards Committee
(08.09.2015) Cont'd

Councillor D W W Thomas - Agenda as a whole - Deputy Cabinet Member for Education - appeals against refusal to grant home to school transport - personal.

5. **MINUTES**

RESOLVED that the Minutes of the meeting of the Appeals and Awards Committee held on 13 March 2015 be approved as a correct record.

6. **APPEAL HEARING ORDER OF PROCEEDINGS**

The Appeal Hearing Order of Proceedings was noted.

7. **CITY AND COUNTY OF SWANSEA - HOME TO SCHOOL TRANSPORT POLICY**

The City and County of Swansea - Home to School Transport Policy was noted.

8. **WELSH GOVERNMENT - LEARNER TRAVEL - STATUTORY PROVISION AND OPERATIONAL GUIDANCE**

The Welsh Government - Learner Travel - Statutory Provision and Operational Guidance was noted.

9. **EXCLUSION OF THE PUBLIC**

The Committee were requested to excluded the public from the meeting during the consideration of the item of business identified in the recommendations to the report on the grounds that it/they involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as amended by 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 to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

It was **RESOLVED** that the public be excluded for the following items on the agenda.

(CLOSED SESSION)

Minutes of the Meeting of the Appeals and Awards Committee
(08.09.2015) Cont'd

10. **SCHOOL TRANSPORT APPEAL - MF**

The Committee heard an appeal by the parent of MF against the Department's decision not to provide free home to school transport for MF.

RESOLVED that the appeal by MF **BE DISMISSED**.

11. **SCHOOL TRANSPORT APPEAL - CTC**

The Committee heard an appeal by the parent of CTC against the Department's decision not to provide free home to school transport for CTC.

RESOLVED that the appeal by CTC **BE DISMISSED**.

The meeting ended at 12.15 p.m.

CHAIR

Agenda Item 4

Report of the Head of Legal & Democratic Services

Appeals & Awards Committee – 26 April 2016

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 No. | Relevant Paragraphs in Schedule 12A |
| | 5 | 12 and 16 |
| | | |
| Report Author: | Democratic Services | |
| Finance Officer: | Not Applicable | |
| Legal Officer: | Patrick Arran – Head of Legal & Democratic Services (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, Cabinet 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> <p>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</p> <p>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>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.</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>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> |
| | <p>No public interest test.</p> |
| 17 | <p>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.</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>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</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> |