

## CITY AND COUNTY OF SWANSEA

### NOTICE OF MEETING

You are invited to attend a Meeting of the

### CHIEF EXECUTIVE'S APPRAISAL & REMUNERATION COMMITTEE

**At:** Cabinet Conference Room, Guildhall, Swansea

**On:** Tuesday, 11 April 2017

**Time:** 9.00 am

#### Membership:

Councillors: M C Child, E W Fitzgerald, C A Holley, P R Hood-Williams, A S Lewis, C E Lloyd, C Richards and R C Stewart

### AGENDA

Page No.

- 1 Election of Chair for the 2016/2017 Municipal Year.
- 2 Election of Vice Chair for the 2016/2017 Municipal Year.
- 3 Apologies for Absence.
- 4 Disclosures of Personal and Prejudicial Interests.  
[www.swansea.gov.uk/disclosuresofinterests](http://www.swansea.gov.uk/disclosuresofinterests)
- 5 Minutes. 1 - 2  
To approve & sign the Minutes of the previous meeting(s) as a correct record.
- 6 Exclusion of the Public. 3 - 6
- 7 Chief Executive's Performance Annual Review. 7 - 16



Huw Evans  
Head of Democratic Services  
Monday, 3 April 2017

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Contact: Democratic Services (01792) 636923

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE CHIEF EXECUTIVE'S APPRAISAL & REMUNERATION COMMITTEE

HELD AT THE CHIEF EXECUTIVE'S CONFERENCE ROOM, 3RD  
FLOOR, CIVIC CENTRE, SWANSEA. ON MONDAY, 30 JUNE 2014  
AT 3.30 PM

#### **PRESENT:**

<b>Councillor(s)</b>	<b>Councillor(s)</b>	<b>Councillor(s)</b>
D Phillips J E Burtonshaw S E Crouch	E W Fitzgerald C A Holley P R Hood-Williams	C Richards

#### **Officers:**

J Straw	- Chief Executive
D Yeates	- Interim Head of Human Resources and Organisational Development
T Meredith	- Deputy Head of Legal, Democratic Services and Procurement
S Collins	- Democratic Services Officer

#### 1 **ELECTION OF CHAIR FOR THE 2014/2015 MUNICIPAL YEAR.**

**RESOLVED** that Councillor D Phillips be elected Chair for the 2014/2015 Municipal Year.

Councillor D Phillips (Chair) Presided

#### 2 **ELECTION OF VICE CHAIR FOR THE 2014/2015 MUNICIPAL YEAR.**

**RESOLVED** that Councillor C Richards be elected Vice Chair for the 2014/2015 Municipal Year.

#### 3 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillor N S Bradley.

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

In accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea, no declarations of interest were made.

#### 5 **MINUTES.**

**RESOLVED** that the Minutes of the Chief Executive's Appraisal and Remuneration Committee held on 29 January 2014 be approved and signed as a correct record.

6 **EXCLUSION OF THE PUBLIC.**

The Committee was requested to exclude the public from the meeting during consideration of the item of business identified in the recommendation to the report on the grounds that it involves the likely disclosure of exempt information as set out in the exclusion paragraphs 12 and 13 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, relevant to the item 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.

**(CLOSED SESSION)**

7 **CHIEF EXECUTIVE'S PERFORMANCE ANNUAL REVIEW.**

The Chief Executive provided an update on the performance objectives and trump targets which were detailed in the appendices of the report. Questions were asked regarding various objectives.

**RESOLVED** that:

- 1) Members' were satisfied with the performance of the Chief Executive;
- 2) The Committee agree the Performance Targets for 2014/2015.

The meeting ended at 3.59 pm

**CHAIR**

## Report of the Interim Head of Legal & Democratic Services

### Chief Executives Appraisal & Remuneration Committee – 11 April 2017

#### 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>
	7	12 & 13
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Interim 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
<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. Their 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 they 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. Their 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 they 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. Their view on the public interest test was that:</p> <p><b>a)</b> Whilst they were 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 they 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. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were 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 they 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. Their 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 they 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. Their 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 they 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>

# Agenda Item 7

By virtue of paragraph(s) 12, 13 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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