



City and County of Swansea

Notice of Meeting

You are invited to attend a Special Meeting of the

Standards Committee

At: Remotely via Microsoft Teams

On: Friday, 31 July 2020

Time: 10.00 am

Chair: Jill Burgess

Membership:

Councillors: J A Hale, M B Lewis and L G Thomas

Co-opted Members: Gareth Evans, Michaela Jones, Mike Lewis and Margaret Williams

Community / Town Council Representative: Philip Crayford

Agenda

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Huw Evans
Head of Democratic Services
Friday, 24 July 2020

Contact: Democratic Services - 01792 636923

STANDARDS COMMITTEE (3)

Councillors

Councillors Labour: 2

Joe A Hale	Mike B Lewis
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Councillors Liberal Democrat & Independent Group 1

L Graham Thomas	
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Independent Members

Name	Term of Office	Name	Term of Office
Jill Burgess *	19.10.2012 to 18.10.2018 Re-appointed to 18.10.2022	Michaela Jones	01.10.2017 to 30.09.2023
Philip Crayford *	05.10.2012 to 04.05.2017 Re-appointed until next Local Government Elections	Mike Lewis	01.10.2017 to 30.09.2023
Gareth Evans	01.04.2015 to 31.03.2021	Margaret Williams	01.04.2015 to 31.03.2021

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/Community Town Councillors** 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.
5. Only one Executive Member (except Leader) can sit on Standards Committee.

Agenda Item 3



City and County of Swansea

Minutes of the **Standards Committee**

Room 235 (Councillors Meeting Room) - Guildhall, Swansea

Tuesday, 12 November 2019 at 10.00 am

Present:

Councillor(s)

M B Lewis

Councillor(s)

L G Thomas

Councillor(s)

Co-opted Member(s)

Jill Burgess
Philip Crayford

Co-opted Member(s)

Gareth Evans
Michaela Jones

Co-opted Member(s)

Mike Lewis

Officer(s)

Tracey Meredith
Huw Evans
Allison Lowe

Chief Legal Officer / Monitoring Officer
Head of Democratic Services
Democratic Services Officer

Apologies for Absence

Councillor(s): J A Hale

Independent Member(s): Margaret Williams

1 Election of Chair for the Municipal year 2019-2020.

Resolved that Jill Burgess be elected Chair for the Municipal Year 2019-2020.

Jill Burgess (Chair) Presided

2 Election of Vice Chair for the Municipal Year 2019-2020.

Resolved that Margaret Williams be elected Vice Chair for the Municipal Year 2019-2020.

3 Disclosures of Personal and Prejudicial Interests.

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

Mike Lewis, Independent Member declared a personal interest in Minute 7 "Public Services Ombudsman for Wales Annual Report and Annual Letter for 2018/19" as an Independent Member of Hywel Dda University Health Board.

4 Minutes.

Resolved that the Minutes of the Standards Committee held on 7 February 2019 be approved and signed as a correct record.

5 Annual Meeting with Political Group Leaders, Chairs of Committees and Chief Executive.

The Chair welcomed Councillor Rob Stewart, Leader of the Council to the Standards Committee. He was introduced to the members of the Committee.

Councillor Stewart thanked the Committee for inviting him.

The themes for discussion, which had been circulated in advance were as follows:

- 1) Do you consider that it is still appropriate to have a Code of Conduct in Wales, which applies to all councillors and co-opted members?
- 2) What do you understand the role of the Standards Committee to be?
- 3) Is there any work you feel the Standards Committee should be undertaking over the next year?
- 4) How can Political Group Leaders / Committee Chairs promote standards and good governance through Leadership?
- 5) How can the Standards Committee become more active in promoting ethical conduct among Councillors / Co-opted Members?
- 6) The Ombudsman, Adjudication Panel for Wales and the High Court has taken a view on politicians (and in some cases senior officers) having a "thick skin" and on political banter being part of the political landscape. What are your own views and how would you as a Political Group Leader/Committee Chair ensure that the line is not crossed.
- 7) What are your views on the Authority's Code of Conduct training? How could it be improved so as to raise the ethical standards of Councillors / Co-opted Members?
- 8) Training for Councillors / Co-opted Members is vitally important. How can the Standards Committee tackle those that do not see training as important?
- 9) The Authority's Internal Dispute Resolution Process (IDRP)(Cllr v Cllr) has not yet been utilised. In the event of a dispute will you be encouraging your party to use the process? Do you consider the lack of referrals to the IDRP demonstrates that councillors are behaving within the Code?
- 10) What is the future role of the Standards Committee?

Councillor Stewart outlined the following:

- He did consider it still appropriate to have a Code of Conduct in Wales, which applied to all councillors and co-opted members to maintain the best standards of behaviour in public life. He also informed the Committee that the Labour Party had their own Code of Conduct that party members were required to sign. This was reviewed every 5 years;
- The Standards Committee considered any breaches of the Code of Conduct referred to them for consideration. He was aware, however that no cases had been referred to the Standards Committee by the Public Services Ombudsman for Wales (PSOW) for consideration;
- He could not recall the Internal Dispute Resolution Process adopted by the City & County of Swansea having been utilised in the last few years. He felt this was a true test of improved behaviour of Councillors over recent years;
- Councillor Stewart queried whether the Standards Committee would consider adding some further guidance to the Internal Dispute Resolution Process should a dispute arise between members of the same political group;
- He also asked the Committee to consider whether candidates for Local Government Elections could be asked to sign up to the Code of Conduct or similar standard prior to being elected;
- Political Group Leaders / Committee Chairs could promote standards and good governance through Leadership by leading by example and 'living' the principles of the Code. He felt he did this both as Leader of the Council and as Leader of his political group. The political group "Whips" also assisted in the process;
- A number of Councillors were also able to attend the Annual Leadership Programme provided via the Welsh Local Government Association to develop and enhance leadership skills;
- He felt that the Standards Committee were sufficiently active in promoting ethical conduct among Councillors / Co-opted Members, however he suggested refresher training on the Code of Conduct be offered to Councillors approximately 18 months to 2 years after being elected to re-inforce the standards. In addition he suggested that e-learning be expanded where possible;
- In relation to comments that politicians (and in some cases senior officers) should have a "thick skin" and on political banter being part of the political landscape he stated that he would not want to stifle robust debate, however political debate should never turn into personal debate. He felt that current relationships between Councillors in Swansea allowed good political debate;
- He was of the opinion that most Councillors embraced training as an important element of their personal development and there was reasonably good attendance at sessions. Some topics had been mandated and Group Leaders were informed of non-attendance;
- As previously mentioned, the Authority's Internal Dispute Resolution Process (IDRP)(Cllr v Cllr) had not yet been utilised, however he would encourage his party to utilise the process. He agreed that the lack of instances to utilise the IDRP demonstrated that councillors were behaving within the Code.

The Chair thanked Councillor Stewart for his comments. The Committee would consider his suggestions for improving their role within the Authority.

6 Standards Committee Annual Report 2018-2019.

The Monitoring Officer presented a report to set out the work of the Standards Committee from 2018-2019.

The report would be presented to Council on 27 November 2019 by the Chair of the Standards Committee.

It was suggested that the number of cases in paragraph 6.5.1 (a) and (b) be changed to words rather than numbers.

Resolved that the amended Standards Committee Annual Report 2018-2019 be forwarded to Council on 27 November 2019.

7 Public Service Ombudsman for Wales Annual Report and Annual Letter for 2018/19.

The Monitoring Officer presented the Annual Report of the Public Services Ombudsman for Wales (PSOW) 2018/2019.

In addition, his Annual Letter to the Council was attached at Appendix B.

It was noted that the number of Code of Conduct complaints had increased by 4% (270 to 282) compared to 2017/18. Complaints against Community & Town Councillors rose by 14%.

There was a further slight reduction in complaints related to failure to disclose or register interests from 19% in 2017/18 to 17%:

- 13% related to failure to act with integrity;
- 9% related to failure to uphold the law;
- 7% related to accountability and openness.

The PSOW also noted with concern the rise in Community and Town Councillor complaints, many of which alleged a failure to promote equality and respect. It was noted that there had been an increase in the number of these complaints from Clerks and staff members of such Councils.

The figures for Swansea in Table 1.3b and the table D of the letter on page 112 were queried as they did not tally. In addition the figures outlined in Table B of the letter did not add up to the figure of 83 for Swansea in Table A. The Monitoring Officer stated that she would clarify the figures with the PSOW.

Resolved that the report be noted.

8 Code of Conduct Casebooks.

The Monitoring Officer updated the Committee on the latest Public Services Ombudsman for Wales Code of Conduct Casebooks.

The following issues were attached at Appendix A:

- Issue 19 February 2019 – October to December 2018;
- Issue 20 May 2019 – January to March 2019;
- Issue 21 September 2019 – April to June 2019;
- Issue 22 October 2019 – July to September 2019.

Resolved that:

- 1) The reports be noted;
- 2) The reports be circulated to all Councillors.

9 Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW).

The Monitoring Officer advised the committee of the decisions made by the Public Services Ombudsman for Wales in relation to allegations that Community & Town Councillors and Local Authority Councillors had breached the Code of Conduct.

Resolved that the report be noted.

10 Exclusion of the Public.

The Committee was requested to exclude the public from the meeting during the consideration of the item(s) of business identified in the recommendation to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exemption paragraph 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(s) of business set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the item(s) of business where the Public Interest Test was relevant as set out in the report.

Resolved that the public be excluded for the following items of business.

(Closed Session)

11 Request(s) for Dispensation.

The Monitoring Officer provided a report to consider an application for dispensation in relation to Councillor A Pugh.

In considering the granting of dispensations, the Committee sought to balance the public interest in preventing members with prejudicial interests from taking part in

decisions, against the public interest of decisions being taken by a representative group of members of the Authority.

A failure to grant a dispensation which results in an authority or committee not achieving a quorum, can constitute grounds for granting a dispensation.

Resolved that:

- 1) Councillor A Pugh be granted the following dispensation under paragraphs 2 (d), (e) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 (as amended):
 - i) To Stay, Speak and Vote (but not in relation to her daughters employment) when considering Child & Family Social Services issues.
 - ii) The dispensation shall NOT apply if the Councillor is or becomes aware of any impact on a closely associated person (within the meaning of paragraph 10(2)(c) of the Code of Conduct) that relates to and is specific to her daughter.

12 Work Plan. (Discussion)

The Monitoring Officer led a discussion on future Work Plan items for consideration by the Standards Committee.

Resolved that the future Work Plan include:

- 1) Consideration of commencement of Annual Meetings with Political Group Leaders, Chairs of Committees and Chief Executive. Consider devising a summary sheet of discussions undertaken and promote to other Local Authorities as "best practice";
- 2) Guidance on a Code of Conduct or similar standard for Local Government Election candidates;
- 3) Enhancement of the Internal Dispute Resolution Process;
- 4) Review of the Unreasonable Behaviour Policy.

The meeting ended at 11.26 am

Chair

Agenda Item 4



Report of the Chief Legal Officer

Special Standards Committee – 31 July 2020

Exclusion of the Public

Purpose:	To consider whether the Public should be excluded from the following items of business.				
Policy Framework:	None.				
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.				
	<table border="1"><thead><tr><th>Item No.</th><th>Relevant Paragraphs in Schedule 12A</th></tr></thead><tbody><tr><td>5</td><td>12, 13</td></tr></tbody></table>	Item No.	Relevant Paragraphs in Schedule 12A	5	12, 13
Item No.	Relevant Paragraphs in Schedule 12A				
5	12, 13				
Report Author:	Democratic Services				
Finance Officer:	Not Applicable				
Legal Officer:	Tracey Meredith – Chief Legal Officer (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 dependent 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. 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>
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. 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>
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. Their view on the public interest test was that:</p> <ul style="list-style-type: none"> a) 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 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 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>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. 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>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. 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>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. 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 5

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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