

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STANDARDS COMMITTEE


At: Committee Room 3, Civic Centre, Swansea

On: Friday, 21 February 2014

Time: 9.30 am

AGENDA

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1 Apologies for Absence.	
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3 Minutes. To approve as a correct record the minutes of the Standards Committee held on 17 January 2013.	3 - 5
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7 Applications for Dispensation.	11 - 16



Patrick Arran
Head of Legal, Democratic Services & Procurement
Monday 17 February 2014

Contact: Jane Tinker 636820

Agenda Item 2

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.

Agenda Item 3

CITY AND COUNTY OF SWANSEA

MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE

HELD AT COMMITTEE ROOM 3, CIVIC CENTRE, SWANSEA ON FRIDAY 17
JANUARY 2014 AT 9.30 A.M.

PRESENT: A Novis (Chair) presided

Councillor(s): **Councillor(s):**

P Downing J W Jones

Independent Members:

J Burgess M Howells C G Walton
J Gomes

Officers:

T Meredith - Deputy Head of Legal, Democratic Services and Procurement
H Evans - Head of Democratic Services
J Tinker - Democratic Services Co-ordinator

50. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors C E Lloyd and J A Raynor.

51. **BEST WISHES**

The Committee wished best wishes to Councillor C E Lloyd for a speedy recovery following his recent illness.

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

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

53. **MINUTES**

RESOLVED that the Minutes of the Meeting of the Standards Committee held on 15 November 2013 be accepted as a correct record.

54. **MATTERS ARISING FROM THE MINUTES**

Minute No. 41 - Members Indemnity for Code of Conduct Hearing

The Deputy Head of Legal, Democratic Services and Procurement updated the Committee regarding the response from the Ombudsman. It was stated that this response would be circulated to the Committee.

Minute No. 42 - Annual Meeting with Group Leaders

The Head of Democratic Services stated that various queries had been received from Group Leaders and the Chief Executive regarding what would be expected from them when they attend this Committee and that it would be advantageous if the Committee agree the actual framework and expected outcomes. The Committee considered this and suggested that views regarding the following be sought at this meeting with Group Leaders :

- How Group Leaders saw the role of the Standards Committee.
- Did they understand this role?
- How they could help in promoting standards and good governance.
- How they see the future role of Standards Committee.
- Their views regarding training in respect of the Code.
- How they considered the Regional Dispute Regulations worked.

The separate role of the Chief Executive and Group Leaders was discussed.

RESOLVED that:

- (1) the Group Leaders be informed that their views regarding the above would be sought;
- (2) Committee Members contact Democratic Services with any further questions;
- (3) the Group Leaders be invited collectively initially and the Chief Executive be invited to a separate meeting.

55. **UPDATE ON CASES**

The Head of Democratic Services provided an update on current breach of the Code of Conduct investigations.

56. **COMMUNITY/TOWN COUNCILS STANDARDS SUB-COMMITTEE - SITUATION IN WALES**

The Head of Democratic Services presented a joint report regarding the issues relating to merging the Standards Committee with the Community/Town Council Standards Sub-Committee, the policies that must be followed together with the situation with regard to Standards Committees throughout Wales.

RESOLVED that the views of the Group Leaders be sought when they are invited to this Committee.

57. **EXCLUSION OF THE PUBLIC**

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

(CLOSED SESSION)

58. **OMBUDSMAN NON-ACCEPTANCE OF ALLEGATION**

The report of the Monitoring Officer advised the Committee of the decision by the Ombudsman not to investigate the allegation of a breach of the Code of Conduct against the Councillor(s) indicated in the report.

RESOLVED that the decision of the Ombudsman be noted.

59. **FINDING OF THE OMBUDSMAN - NO EVIDENCE OF A BREACH**

The report of the Monitoring Officer advised the Committee of the decision by the Ombudsman that there was no evidence of a breach of the Code of Conduct against the Councillor(s) indicated in the report.

RESOLVED that the decision of the Ombudsman be noted.

The meeting ended at 10.10 a.m.

CHAIR

Breach of Code of Conduct

Ombudsman & Standards Committee Complaints 21 February 2014

Name & Address	Date received	Ombudsman Reference	Date opened and file Ref.	Description	Current Status	Update
City and County of Swansea	21/11/2013	201304587	27/11/2013 SC1-00193784	Alleged Breach of the Code	Ombudsman investigating, per letter dated 3 December 2013	Investigation ongoing, per verbal update from Ombudsman investigator on 12 February 2014

Agenda Item 6

Report of the Head of Legal, Democratic Services & Procurement

Standards Committee – 21 February 2013

EXCLUSION OF THE PUBLIC

Purpose:	To consider whether the Public should be excluded from the following items of business.	
Policy Framework:	None.	
Reason for Decision:	To comply with legislation.	
Consultation:	Legal.	
Recommendation(s):	It is recommended that:	
1)	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	Item Nos.	Relevant Paragraphs in Schedule 12A
	7	12, 13
Report Author:	Democratic Services	
Finance Officer:	Not Applicable	
Legal Officer:	Patrick Arran – Head of Legal, Democratic Services and Procurement (Monitoring Officer)	

1. Introduction

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

2. Exclusion of the Public / Public Interest Test

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

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

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

3. Financial Implications

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

4. Legal Implications

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

Background Papers: None

Appendices: Appendix A - Public Interest Test

Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
12	Information relating to a particular individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
13	Information which is likely to reveal the identity of an individual.
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <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>
15	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the

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

Agenda Item 7

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

Document is Restricted

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