



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Standards Committee

**At:** Room 235 (Councillors Meeting Room) - Guildhall, Swansea

**On:** Thursday, 7 February 2019

**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: P Crayford

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#### Agenda

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| <b>1</b> | <b>Apologies for Absence.</b>   |                |
| <b>2</b> | <b>Disclosures of Personal and Prejudicial Interests.</b><br><a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a> |                |
| <b>3</b> | <b>Minutes.</b><br>To approve & sign the Minutes of the previous meeting(s) as a correct record.  | <b>1 - 5</b>   |
| <b>4</b> | <b>Code of Conduct Casebook.</b>  | <b>6 - 15</b>  |
| <b>5</b> | <b>Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW).</b>   | <b>16</b>      |
| <b>6</b> | <b>Exclusion of the Public.</b>   | <b>17 - 20</b> |
| <b>7</b> | <b>Requests for Dispensation.</b>   | <b>21 - 25</b> |

**Huw Evans**  
**Head of Democratic Services**  
**Thursday, 31 January 2019**

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**Contact: Democratic Services - (01792) 636923**

## 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**

Committee Room 5 - Guildhall, Swansea

Friday, 16 November 2018 at 10.00 am

**Present:** Jill Burgess (Chair) Presided

**Councillor(s)**

J A Hale

**Councillor(s)**

M B Lewis

**Councillor(s)**

L G Thomas

**Independent Member(s)**

Philip Crayford

Gareth Evans

**Independent Member(s)**

Mike Lewis

Margaret Williams

**Officer(s)**

Huw Evans

Allison Lowe

Tracey Meredith

Head of Democratic Services

Democratic Services Officer

Chief Legal Officer

**Apologies for Absence**

Independent Member(s): Michaela Jones

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## 12 Disclosures of Personal and Prejudicial Interests.

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

## 13 Minutes.

**Resolved** that the Minutes of the Standards Committee held on 20 July 2018 be approved and signed as a correct record.

**Matters Arising:**

Minute 10 – Standards Conference Wales 2018

Feedback was provided by the attendees (Monitoring Officer, Chair and Co-Opted Member Mike Lewis).

All had attended the various workshops delivered on the day and overall the feedback was positive, however the format of the day differed from that previously delivered and it was felt that there had not been as much opportunity for as much interaction with the PSOW as in previous years.

The Monitoring Officer would check as to what documentation had been circulated by email or include in the papers for the next meeting.

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

The Chair welcomed Mr Phil Roberts, Chief Executive to the Committee.

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 you as Chief Executive 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 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?

He outlined the following:

- He agreed that it was essential to have a Code of Conduct in Wales, which applied to all Councillors and Co-Opted Members. The Nolan Principles formed a good base. In addition, as Head of Paid Service he had a duty of care to all the staff employed by the Authority, therefore it was equally

important that there was a framework in place to ensure that the behaviour of both officers and Councillors was reasonable.

- Since he had taken up the role of Chief Executive, he had introduced regular meetings between the Corporate Management Team and the Cabinet Members as well as regular 1-2-1 meetings with the Political Group Leaders in order to encourage better communication. Due to these discussions any issues that arose were now resolved at an early stage.
- There had been many other positive changes in the Authority over recent years and this was in part due to the establishment of a more inclusive culture. In addition the temperament of and relationships that now existed with the Group Leaders was much improved. Robust political debate still existed but there was now more mutual respect between political parties.
- He thanked the Committee for the continued work they undertook in relation to standards, however he suggested that the Committee consider raising their profile so that more staff understand the content of their work.
- He had posted in his weekly "Blog" of his invitation to attend the Committee in order to discuss relations and behaviours between officers and members in the Council. He stated that perhaps Senior Officers would be more aware of their work than junior ones – maybe some internal communication could be circulated.
- He agreed that he also played a role in promoting standards and good governance by leading by example.
- He felt there was a team ethic whereby officers and councillors were all committed to doing the best for the citizens of Swansea.
- He agreed that there was always scope to improve staff training and perhaps reference to the Standards Committee could be included. He also outlined the innovation programme that had been commenced a few years ago whereby a team of staff developed a range of activities aimed to prevent bullying in the workplace (by both staff and the public). "Show bullying the red light" was developed and a "bully buddy" scheme had also been established, together with a range of other activities. However, he was conscious that staff morale could suffer as a result of austerity. Some staff were working at capacity in some areas and struggling to do the day job. He would need to monitor the situation.
- He suggested the Standards Committee promote its role via the publication of their Annual Report which outlines the work the Committee undertakes during a municipal year.
- Although he was content that the number of Code of Conduct complaints against Swansea Councillors and the number of Councillor –v- Councillor disputes had fallen, he was not complacent and would continue to ensure that standards remained high.
- He commented that the Market Place event held during the 2017 Local Government Elections had been well received by Councillors and he had received requests from those who were not able to attend for it to be repeated.
- A buddying system was in place for newly elected Councillors, but it was organised within the political groups – there was scope to develop this further at the next Local Government Elections.

- Standards could affect the reputation of an organisation, in particular recruitment, therefore it was important that the culture was right. He acknowledged that a mature political organisation assisted in this process.
- Code of Conduct training is included in the Induction training for both new and returning Councillors and refresher training provided periodically. Perhaps some cases from the Code of Conduct Casebook could be included in the training.
- The Standards Committee should continue to monitor cases as well as the PSOW Code of Conduct Casebook and continue their yearly meetings with Political Groups Leaders, Chairs and Chief Executive. In addition, the Welsh Local Government Association (WLGA) also provided “good practice” examples.

The Chair thanked Mr Roberts for his attendance.

**15 Public Services Ombudsman for Wales Annual Report and Accounts 2017-2018.**

The Monitoring Officer updated the Standards Committee on the Annual Report of the Public Services Ombudsman for Wales 2017/18, which was outlined at Appendix A.

The Annual Report sets out performance over the year including both complaints about public service providers as well as code of conduct complaints.

The Monitoring Officer specifically outlined the statistics on pages 34-36 of the agenda pack, which were most relevant to the Committee.

**Resolved** that the report be **noted**.

**16 Code of Conduct Casebook.**

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

The latest issue – Issue 17 July 2018 covered the period April to June 2018 and was attached at Appendix A.

A general discussion ensued in relation to Minute No's 16 & 17 in relation to whether there was a role for the Standards Committee to assist in cases where Councillors who had been found to have breached the code of conduct but where the PSOW had decided to take no further action. This could be seen as a learning tool to assist in the complaints process.

**Resolved** that:

- 1) The report be noted;
- 2) The report be circulated to all Councillors
- 3) The Monitoring Officer write to the PSOW to enquire how the Standards Committee could widen their role in order to assist in the complaints process.

**17 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 Local Authority Councillors had breached the Code of Conduct.

It was noted that since the agenda pack had been published, notification had been received from the PSOW that he would not be investigating case no. 201804579 outlined in the report.

**Resolved** that the report be noted.

The meeting ended at 11.20 am

**Chair**

# Agenda Item 4



## Report of the Monitoring Officer

Special Standards Committee – 7 February 2019

### Code of Conduct Casebook

<b>Purpose:</b>	To update the Standards Committee on the Ombudsman's Code of Conduct Casebook
<b>Report Author:</b>	Tracey Meredith
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Rhian Millar
<b>For Information</b>	

#### 1. Background

- 1.1 The Public Service Ombudsman for Wales has published a Code of Conduct Casebook for the period July to September 2018 – Issue 18 October 2018, which is attached at Appendix A.

#### 2. Equality and Engagement Implications

There are no equality and engagement implications associated with this report.

#### 3. Legal Implications

There are no legal implications associated with this report.

#### 4. Financial Implications

There are no financial implications.

**Background Papers:** None

**Appendices:** Appendix A – Code of Conduct Casebook



# The Code of Conduct Casebook

Issue 18 October 2018

## Contents

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## Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2018.

## Case summaries

### No evidence of breach

Saltney Town Council – Disclosure and registration of interests

Case number 201707925 – Report issued in July

The Ombudsman investigated a complaint that a Councillor (“the Councillor”) may have breached the Code of Conduct by participating in, and voting on, a decision to award a grant to a charitable organisation of which she was Chair.

The Ombudsman concluded that the Councillor’s position as Chair of the organisation was likely to have given rise to a personal and prejudicial interest and as such the Councillor should not have taken part unless an exemption applied or she had received a dispensation from the relevant standards committee. The investigation found that the Councillor had recognised this and had considered applying for a dispensation. However, she was advised by a County Council Officer that this was not necessary as an exemption at paragraph 12(2)(a)(ii) of the Code applied and she could therefore participate. This exemption applies when the item of business relates to another public body or body exercising functions of a public nature in which the member holds a position of general control or management. The Ombudsman found that the Councillor was therefore acting in good faith on the basis of the advice she had received. He therefore concluded that the evidence did not suggest that she had breached the Code.

Powys County Council – Promotion of equality and respect

Case number 201701865 – Report issued in September

A complaint was received about a behaviour of a member (“the Councillor”), during a shortlisting meeting to discuss the applications for a new Headteacher post.

An investigation was commenced to consider whether the Councillor had breached parts of the Code which concern respect and consideration, bullying and harassment, and disrepute.

The Ombudsman determined that there was no evidence to suggest that the Councillor breached the Code and therefore no action needed to be taken.

Manorbier Community Council – Promotion of equality and respect

Case number 201708037 – Report issued in September

The Ombudsman received a complaint that a Councillor (“the Councillor”) was verbally abusive and bullying to a member of the public during a Community Council meeting.

An investigation was commenced to consider whether the Councillor had breached parts of the Code of Conduct (“the Code”) which concern to treating others with respect and consideration, bullying and harassment, and disrepute.

Five witnesses were interviewed and the consensus was that the Councillor did not say or do anything during the meeting that gave them undue concern. The Ombudsman determined there was no evidence to suggest that the Councillor had breached the Code.

**Abertillery & Llanhilleth Community Council – Promotion of equality and respect**

**Case number 201800122 –Report issued in August**

The Ombudsman investigated a complaint that a Councillor (“the Councillor”) may have breached the Code of Conduct by disclosing confidential human resources and financial information.

Having considered the information available to him, the Ombudsman concluded that there was no evidence to suggest that the Councillor had improperly shared any information and, that there was no evidence that a breach of the Code of Conduct had occurred.

## No action necessary

### Sully and Lavernock Community Council – Promotion of equality and respect

#### Case Number 201706912 – Report issued in September

The Ombudsman received a complaint that a Member (“the Member”) of Sully and Lavernock Community Council (“the Council”) had breached the Code of Conduct by sending an email to his fellow councillors which was disrespectful and offensive about another councillor.

The Member was interviewed, as were the councillor who was subject of the email and two other members of the Council. At interview, the Member acknowledged that he should not have sent the email and that it was inappropriate. The Member expressed regret for his actions and said that he would not act in that way again. In mitigation, the Member said that relationships within the Council were currently difficult, and he had received a number of critical emails from the councillor concerned. The Member said that he had not intended to copy the email to all the members of the Council, but had done so by accident, when replying to a previous email.

The Ombudsman concluded that it was likely that the Member had breached paragraphs 4(a) and 4(b) of the Code, which require that members should carry out their duties with due regard to equalities issues and must show respect and consideration to others. However, in view of the mitigating factors, the Member’s contrition and his promise not to act in that way again, the Ombudsman concluded that it would not be in the public interest to refer the matter to the standards committee.

### Carmarthenshire County Council – Promotion of equality and respect

#### Case number 201606614 – Report issued in July

The Ombudsman received a complaint that a former member of Carmarthenshire County Council (“the Councillor”) had brought the office of member of the Council into disrepute as a result of behaviour which failed to show respect and consideration for others. The complaint related to the Councillor’s behaviour towards the Council’s Chief Executive and her conduct towards officers of the Council on 2 December 2016. The investigation considered whether the Councillor may have breached paragraphs 4(b), 6(1)(a) and 7(a) of the Code of Conduct.

As the Councillor was not re-elected at the May 2017 election, the Ombudsman considered that the matters were not sufficiently serious for it to be in the public interest to pursue further. The Ombudsman found that no action needed to be taken in respect of the matters investigated.

### Clyro Community Council – Disclosure and registration of interests

#### Case number 201704165 – Report issued in September

The Ombudsman investigated a complaint that a Councillor (“the Councillor”) may have breached

the Code of Conduct by participated in a discussion and voted on a local planning application without declaring an interest. In addition, the Ombudsman investigated whether the Councillor had a closed mind when he attended two Community Council meetings in September and October 2017.

Having considered all the information available to him, the Ombudsman concluded that there was no evidence that the Councillor had a personal interest in the planning application and it therefore followed that he did not have a prejudicial interest. In addition, the Ombudsman concluded that the Councillor was predisposed and not predetermined when he attended the initial meeting and voted. The Ombudsman did not consider that there was sufficient evidence to support a contention that the Councillor was predetermined at the second meeting. There was no evidence that a breach of the Code of Conduct had occurred.

### Llay Community Council – Objectivity and propriety

#### Case number 201702478 – Report issued in July

The Ombudsman received a complaint that during a meeting of Llay Community Council a member (“the Member”) had breached the Code of Conduct. It was alleged that the Member’s behaviour had been disrespectful and, that he had disclosed confidential information. It was also alleged that the Member had used his position to confer a disadvantage on a local resident and failed to declare an interest in the matter. Finally, it was alleged that the member had brought his office of member into disrepute.

Information was sought from the Council and interviews were undertaken with witnesses to the meeting and the member.

The investigation found that, the member had made representation to the Council on this matter on behalf of his constituent. There was no evidence to suggest that the member had used his position to secure disadvantage for the member of the public or, that he had an interest in this matter. The investigation also found that, whilst the member did disclose information during the meeting, it was not of a confidential nature.

The Ombudsman did, however, have some concern about the personal comments the member made about a member of the public while addressing the Council. The comments did not add any value to the Council’s consideration of the matter and were neither appropriate nor necessary.

Under Section 69(4)(b) of the Local Government Act 2000, the Ombudsman found that no action needed to be taken in respect of the matters investigated.

### Ceredigion County Council – Disclosure and registration of interests

#### Case number 201701091 – report issued in July

Mr X complained that an elected member of the Council (“the Councillor”) had breached the

Code of Conduct for members ("the Code") when he attended a meeting that a Council officer had advised him not to attend. Mr X also complained about the Councillor's conduct towards specific persons at the meeting.

The Ombudsman investigated the complaint on the basis that the Councillor may have breached paragraphs 8(a), 4(b), 4(c) and 6(1)(a) of the Code relating to showing respect, bullying behaviour, disrepute and having regard to advice provided by a Council officer.

The Ombudsman did not find any evidence that the Councillor had been advised not to attend the meeting by a Council officer, or that the manner in which he spoke to most of the meeting attendees exceeded the boundaries of professional conduct.

The Ombudsman did find that the Councillor's robust manner had an effect on one individual at the meeting and that the Councillor should have amended his behaviour towards him specifically as he had previously met him and described him as 'nervous'. Whilst the Councillor was reminded to modify his behaviour for his audience, the Ombudsman concluded that, on balance, it was not in the public interest to refer the matter to a Standards Committee or Adjudication Panel for Wales and, therefore, no further action should be taken.

## Referred to Standards Committee

Neyland Town Council – Disclosure and registration of interests

Case number 201703026 – Report issued in July

The Ombudsman received a complaint that a member of the council (“the Councillor”) of Neyland Town Council may have used his position improperly by trying to stop a project that the Town Council had already agreed to support. It was alleged that the Councillor had a business interest in the matter.

The Ombudsman obtained relevant information about the matter and interviewed witnesses. The Councillor provided his comments on the complaint at the outset of the investigation but did not respond to a request to be interviewed.

The Ombudsman found that there was evidence to suggest that the Councillor may have breached the Code of Conduct and referred the matter for consideration by the Council’s Standards Committee.

The Standards Committee concluded that the Councillor had breached the Code of Conduct. Accordingly, the Committee decided that the Councillor should be censured.

The decision of the Standards Committee can be found [here](#).



## Referred to Adjudication Panel for Wales

Monmouthshire County Council

Case Number: 201604188 - Report issued in December 2017

The Ombudsman received a complaint that a Councillor ("the Councillor") had sent emails to the complainant, when acting in his capacity as a member of the Council, which the complainant considered contained comments which failed to show respect and consideration for members of the LGBT community.

The Ombudsman considered that the comments made were egregious and there was no reason to use such language to obtain the information he required, about the way the Council used its funds or even to express his view. The Ombudsman found that the comments made and the language used may amount to a failure to show respect and consideration for others and that there was evidence suggestive of a breach of paragraph 4(b) of the Code of Conduct.

The Ombudsman referred the matter to the Adjudication Panel for Wales for adjudication by tribunal.

The Tribunal concluded that the Councillor had breached the Code of Conduct. Accordingly, the Tribunal decided that the Councillor should be suspended from the Council for a period of two months.

The decision of the Adjudication Panel for Wales can be found [here.](#)



**Report of the Monitoring Officer**

**Special Standards Committee – 7 February 2019**

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

The Committee is advised of the following decisions by the PSOW in relation to allegations that Local Authority and Community and Town Councillors have breached the Code of Conduct.

<b>Name of Council / Councillor</b>	<b>Name of Complainant</b>	<b>Ombudsman Reference</b>	<b>Complaint Date</b>	<b>Result of Investigation and date or the current situation</b>
City & County of Swansea Councillor	Member of the Public	201802771	Between 23 May 2017 and 24 January 2018	Original complaint letter received 10 August 2018. Further letter received 18 September 2018 – PSOW investigating. Decision letter received 19 November 2018 – no action to be taken by PSOW.
City & County of Swansea Councillor	Member of the Public	201805060	6 November 2018	Original complaint letter received 19 November 2018. Decision letter received 05.12.2018 – PSOW not investigating.
City & County of Swansea Councillor	Member of the Public	201805175	6 November 2018	Original complaint letter received 21 November 2018. Decision letter rec'd 05.12.2018 – PSOW not investigating
City & County of Swansea Councillor	Member of the Public	17910/ 201805809	Date not specified	Original complaint letter received 18 December 2018. Decision letter received 06.12.2018 – PSOW not investigating. Decision letter received 16.01.2019 – PSOW not investigating.

# Agenda Item 6



## Report of the Chief Legal Officer

Special Standards Committee – 7 February 2019

### 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>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.				
	<table border="1"><thead><tr><th>Item No.</th><th>Relevant Paragraphs in Schedule 12A</th></tr></thead><tbody><tr><td>7</td><td>12, 13</td></tr></tbody></table>	Item No.	Relevant Paragraphs in Schedule 12A	7	12, 13
Item No.	Relevant Paragraphs in Schedule 12A				
7	12, 13				
<b>Report Author:</b>	Democratic Services				
<b>Finance Officer:</b>	Not Applicable				
<b>Legal Officer:</b>	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 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> <ul style="list-style-type: none"> <li>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</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <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></p> <p><b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b></p> <p><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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