

## **Pwyllgor Penodiadau ar y Cyd Dinas-Ranbarth Bae Abertawe**

**Lleoliad:** Phil Bennett Lounge, Parc y Scarlets, Llanelli, Sir Gaerfyrddin , SA14 9UZ

**Dyddiad:** Dydd Gwener, 6 Rhagfyr 2019

**Amser:** 8.30 am

**Aelodaeth:**

Cynghorwyr:

Tony Baron	Cyngor Sir Benfro
Jan Curtice	Cyngor Abertawe
Emlyn Dole	Cyngor Sir Gar
Mike Harvey	Neath Port Talbot Council
Rob Jones	Cyngor Bwrdeistref Sirol Castell-Nedd Port Talbot
Alun Lenny	Cyngor Sir Gar
David Simpson	Cyngor Sir Benfro
Rob Stewart	Cyngor Abertawe

### **Agenda**

**Rhif y Dudalen**

- |          |   |                |
|----------|---|----------------|
| <b>1</b> | <b>Ethol Cadeirydd.</b>   |                |
| <b>2</b> | <b>Ethol is-gadeirydd.</b>  |                |
| <b>3</b> | <b>Ymddiheuriadau am absenoldeb.</b>                                  |                |
| <b>4</b> | <b>Datgeliadau o fuddiannau personol a rhagfarnol.</b>                |                |
| <b>5</b> | <b>Cyd-bwyllgor penodiadau rhanbarth Bae Abertawe-cylch gorchwyl.</b> | <b>1 - 3</b>   |
| <b>6</b> | <b>Gwahardd y cyhoedd.</b>  | <b>4 - 7</b>   |
| <b>7</b> | <b>Penodi Cyfarwyddwr y rhaglen.</b>                                  | <b>8 - 106</b> |



*Huw Evans*

**Huw Evans  
Pennaeth Gwasanaethau Democrataidd  
Dydd Iau, 28 Tachwedd 2019**

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**Cyswllt: Gwasanaethau Democrataidd - 01792 636923**

# Agenda Item 5



## Report of the Monitoring Officer

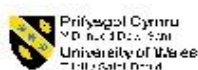
Swansea Bay City Region Joint Appointments Committee – 6 December 2019

### Joint Appointments Committee – Terms of Reference

<b>Purpose:</b>	To approve the Terms of Reference of the Joint Appointments Committee.
<b>Policy Framework:</b>	None.
<b>Consultation:</b>	Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that:  1) The Joint Appointments Committee Terms of Reference at Appendix 1 be approved.
<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

#### 1. Introduction

- 1.1 The Swansea Bay City Region Joint Committee created the Swansea Bay City Region Joint Appointments Committee in order to carry out a process to appoint a Programme Director. A report setting up the Joint Appointment Committee was taken to each constituent Council.
- 1.2 The Joint Appointments Committee is made up of 8 Councillors (4 Council Leaders and 4 others non-executive Councillors appointed by constituent Councils).



- 1.3 The appointment process for the Programme Director post will take place on 6 & 7 December 2019. Therefore there is a need for the Committee to approve terms of reference which are attached at Appendix 1.

## **2. Independent Programme Director**

- 2.1 The independent Programme Director shall report to and be directly accountable to the Joint Committee although will be an employee of Carmarthenshire County Council.

## **3. Equality and Engagement Implications**

- 3.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 3.2 An EIA Screening Form has been completed with the agreed outcome that a full EIA report is not required.

## **4. Financial Implications**

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

## **5. Legal Implications**

- 5.1 Local Authorities have powers under the Local Government Acts 1972 and 2000 to establish Joint Committees.
- 5.2 The process for appointing non-statutory chief officers is subject to the provisions in The Local Authorities (Standing Orders) (Wales) Regulations 2006 which provides that no more than 50% of the membership of an Appointments Committee shall comprise of executive members. In order to allow all 4 Leaders to sit on the Joint Appointments Committee the Committee must therefore comprise of at least 8 members.

**Background Papers:** None.

**Appendices:** Appendix 1 – Terms of Reference

**Terms of Reference for the Swansea Bay City Deal Region**

**Joint Appointment Committee**

1. The Joint Appointment Committee will shortlist, interview and appoint, if appropriate, a suitable candidate to the post of Programme Director of the Swansea Bay City Deal Region.
2. The Joint Appointment Committee shall comprise the 4 Leaders of each constituent Authority and 1 non- executive councillor from each of the 4 constituent Authorities.
3. The Joint Appointment Committee may invite non-voting members to the Committee to assist in the appointment process which may include attendance at the assessment centre and interview stage.

NB Pursuant to the Local Authority (Standing Orders) (Wales) Regulations 2006 at least 1 member of the Joint Appointment Committee must sit on the Committee and no more than 50% of the Committee are permitted to be executive members.

# Agenda Item 6



## Report of the Chief Legal Officer

Swansea Bay City Region Joint Committee – 6 December 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 &amp; 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 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
<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>  <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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