



City and County of Swansea

Notice of Meeting

You are invited to attend a Meeting of the

Appeals & Awards Committee

At: Remotely via Microsoft Teams

On: Tuesday, 26 January 2021

Time: 10.30 am

Chair: Councillor Des Thomas

Membership:

Councillors: J E Burtonshaw, J P Curtice, J A Hale, J W Jones and H M Morris

Agenda

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2 Disclosures of Personal and Prejudicial Interests. www.swansea.gov.uk/disclosuresofinterests	
3 Minutes. To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 5
4 Exclusion of the Public.	6 - 9
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A handwritten signature in black ink that reads 'Huw Evans'.

Huw Evans
Head of Democratic Services
Tuesday, 19 January 2021

Contact: Democratic Service - 636923

Agenda Item 3



City and County of Swansea

Minutes of the **Appeals & Awards Committee**

Remotely via Microsoft Teams

Wednesday, 18 November 2020 at 10.30 am

Present: Councillor D W W Thomas (Chair) Presided

Councillor(s)
J E Burtonshaw

Councillor(s)
J W Jones

Councillor(s)
H M Morris

Officer(s)
Gareth Borsden
Rachel Brooks
Pamela Cole
Melisa Perry
Cath Swain
Stephanie Williams

Democratic Services Officer
Associate Lawyer
Senior ALN Lead
Trainee Solicitor
Integrated Transport Manager
Principal Lawyer

Apologies for Absence

Councillor(s): J P Curtice and J A Hale

18 Disclosures of Personal and Prejudicial Interests.

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

19 City and County of Swansea - Home to School Transport Policy. (For Information)

The City & County of Swansea – Home to School Transport Policy was noted.

20 Welsh Government - Learner Travel - Statutory Provision and Operational Guidance. (For Information)

The Welsh Government - Learner Travel - Statutory Provision and Operational Guidance was noted.

21 Exclusion of the Public.

The Committee was requested to exclude the public from the meeting during consideration of the item(s) of business identified in its recommendation(s) to the report on the grounds that it/they involve(s) the disclosure of exempt information as set out in the exclusion 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 items 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 on the agenda.

(Closed Session)

22 Transport Appeal.

The Committee heard an appeal by the parent of DR.

The appeal was brought against the Department's decision in relation to eligibility for free transport from their home address to Gower College Swansea.

The parent of DR made verbal representations to the Committee in support of her written submissions and outlined the particular circumstances of her appeal relating to the child's disability and special educational needs and her current family circumstances.

Officers of the Education and Transportation sections also made verbal representations in support of their written submissions.

The type and manner of free transport that the authority provides to college students and its main differences to school transport provision (mini buses not taxis) was outlined and detailed by the transport officer to the committee.

Members of the committee asked various questions of both the appellant and officers who responded accordingly.

The Committee considered fully all the verbal and written submissions.

Resolved that

- 1) the appeal on behalf of DR be allowed and DR be provided with free transport to Gower College subject to a review at the end of the current academic year.
- 2) That the parent be encouraged to apply for a concessionary bus pass for DR going forward.

The meeting ended at 11.41 am

Chair



City and County of Swansea

Minutes of the **Appeals & Awards Committee**

Remotely via Microsoft Teams

Friday, 20 November 2020 at 10.30 am

Present: Councillor D W W Thomas (Chair) Presided

Councillor(s)
J E Burtonshaw

Councillor(s)
J P Curtice

Councillor(s)
J W Jones

Officer(s)

Gareth Borsden

Rachel Brooks

Pamela Cole

Melisa Perry

Cath Swain

Stephanie Williams

Democratic Services Officer

Associate Lawyer

Senior ALN Lead

Trainee Solicitor

Integrated Transport Manager

Principal Lawyer

Apologies for Absence

Councillor(s): J A Hale and H M Morris

23 Disclosures of Personal and Prejudicial Interests.

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

24 Exclusion of the Public.

The Committee was requested to exclude the public from the meeting during consideration of the item(s) of business identified in its recommendation(s) to the report on the grounds that it/they involve(s) the disclosure of exempt information as set out in the exclusion 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 items 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 on the agenda.

(Closed Session)

25 School Transport Appeal.

The Committee heard an appeal by the parents of the pupil outlined in the report.

The appeal was brought against the Department's decision in relation to eligibility for free transport from their home address to Gowerton Comprehensive.

The parents of the pupil then made verbal representations to the Committee in support of their written submissions and outlined the particular circumstances of their appeal relating to the child's disability and special educational needs and his family circumstances.

They outlined in particular severe problems due to the Covid 19 pandemic with getting in contact with officers in the Education department and also obtaining the correct written correspondence relating to the pupil.

Officers of the Education and Transportation sections also made verbal representations in support of their written submissions.

The type and manner of free transport that the authority generally provides to secondary school pupils and its main differences to primary school transport provision was outlined and detailed by the transport officer to the committee.

Members of the Committee asked a series of questions of both the appellants and officers who responded accordingly.

The Welsh Government - Learner Travel - Statutory Provision and Operational Guidance and the City & County of Swansea – Home to School Transport Policy outlined in the appendix to the report were noted.

The Committee considered fully all the verbal and written submissions.

Resolved that

- 1) the appeal on behalf of the pupil outlined in the report be allowed, due to what the Committee considered to be exceptional circumstances, and the pupil be provided with free transport to Gowerton School.
- 2) the legal representative make recommendations to the Education Directorate on behalf of the Committee regarding the issues raised during this and the previous appeal.

The meeting ended at 12.24 pm

Chair



City and County of Swansea

Minutes of the Appeals & Awards Committee

Remotely via Microsoft Teams

Tuesday, 24 November 2020 at 10.30 am

Present:

Councillor(s)

Councillor(s)

Councillor(s)

Officer(s)

Gareth Borsden

Democratic Services Officer

Apologies for Absence

Councillor(s): J E Burtonshaw, J P Curtice, J A Hale, J W Jones, H M Morris and D W W Thomas

The meeting being inquorate, did not proceed.

Note: Members had been advised not to attend as the Education Department was undertaking a review of the case to be considered.

Agenda Item 4



Report of the Chief Legal Officer

Appeals & Awards Committee – 26 January 2021

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.	
	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 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
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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