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Our ref: Extraordinary Overview & Scrutiny Panel/Agenda
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EXTRAORDINARY OVERVIEW AND SCRUTINY PANEL

15 OCTOBER 2014

An extraordinary meeting of the Overview and Scrutiny Panel will be held at **3.00 pm on Wednesday, 15 October 2014** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Gideon (Chairman); Councillors: Campbell (Vice-Chairman), Driver, Dwyer, Fenner, Gibson, I Gregory, K Gregory, Hornus, Huxley, Matterface, Moore, Poole, D Saunders, M Tomlinson and Worrow

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest form attached at the back of this agenda. If a Member declares an interest, they should complete that form and hand it to the officer clerking the meeting and then take the prescribed course of action.

3. **EXCLUSION OF PUBLIC AND PRESS** (Pages 1 - 4)

4. **PLEASURAMA - CONSIDERATION OF EXTERNAL LEGAL ADVICE**

Exempt documents to be circulated at the meeting

Declaration of Interests Form

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Exclusion of Public and Press

To: **Extraordinary Overview & Scrutiny Panel – 15 October 2014**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Summary: This report seeks the approval of the Overview & Scrutiny Panel to exclude the public and press from the meeting for agenda item 4 as it contains exempt information as defined in Paragraph 5 of Schedule 12A of the Local Government Act 1972 (as amended).

For Decision

1.0 Introduction

1.1 Whilst the starting point for all public meetings of the Council is to admit the public and press, they may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted that confidential or exempt information would be disclosed. Under such circumstances, confidential or exempt information may be excluded from the public agenda. The public and press **must** be excluded from meetings if confidential information will be considered and disclosed, and such material must be excluded from the public agenda.

Meaning of confidential information

1.2 Confidential information **means** information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

Exempt information – discretion to exclude public

1.3 Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that “exempt” information would be disclosed.

2.0 Exempt information

2.1 The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended).

3.0 Reason(s) Why Agenda Item 4 is considered to be “exempt”

3.1 The report author has classified Agenda Item 4 as disclosing exempt information under Paragraphs 5 (*Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*), of Schedule 12A of the Local Government Act 1972 (as amended) thereby suggesting that the press and public be excluded from the meeting whilst this item is debated.

4.0 Justification/Public Interest Test

- 4.1 The information that will be disclosed during debate is confidential legal advice that Thanet District Council received from the external legal experts and other professionals. Any disclosure of such information would be prejudicial to the interests of Council and the generality of Thanet Residents. Moreover if this information were to become public it could prejudice the Council in its commercial dealings and negotiations. Therefore the need to exempt from the public such information outweighs the need to disclose it to the public.

5.0 Not Excluding the Press and Public

- 5.1 There will be occasions when the meeting may decline to exclude the press and public from the meeting. If that occurs it does not simply mean that those members of the press and public who are present are allowed to stay for the discussion of the item. Declining to exclude the press and public would also mean that the press and public are allowed access to the actual report contained within the confidential part of the agenda (what Democratic Services refer to as the “pink pages”).
- 5.2 If a committee member thinks that it is possible that the recommendation in this report may not be approved at the meeting, it would be helpful to let Democratic Services know that in order that spare copies are available to distribute, if necessary, at the meeting.
- 5.3 If this report is not exempted, Democratic Services would also make arrangements for the report to be retrospectively published on the Council’s website.

6.0 Corporate Implications

6.1 Financial

- 6.1.1 There are no direct financial implications.

6.2 Legal

- 6.2.1 As per Schedule 12A of the Local Government Act 1972 (as amended).

6.3 Corporate

- 6.3.1 Thanet District Council will endeavour to keep the number of exempt reports it produces to a minimum in order to promote transparency.

6.4 Equity and Equalities

- 6.4.1 There are no specific equity and equality considerations that need to be addressed in this report.

7.0 Recommendation

- 7.1 That the public and press be excluded from the meeting for agenda item 4 as it contains exempt information as defined in Paragraph 5 of Schedule 12A of the Local Government Act 1972 (as amended).

8.0 Decision Making Process

8.1 If the press and public are to be excluded for the agenda item this Committee must exercise its power to agree the recommendation.

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager, Ext 7187
Reporting to:	Steven Boyle, Interim Legal Services Manager & Monitoring Officer Ext 7005

Corporate Consultation Undertaken

Finance	N/A
Legal	Steven Boyle, Interim Legal Services Manager & Monitoring Officer

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £100 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING.....

DATE..... **AGENDA ITEM**

DISCLOSABLE PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.