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Date: **08 March 2018**
Our ref: **General Purposes Committee/Agenda**
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GENERAL PURPOSES COMMITTEE

16 MARCH 2018

A meeting of the General Purposes Committee will be held at **11.00 am on Friday, 16 March 2018** in the Business Suite - Council Offices.

Membership:

Councillor Wells (Chairman); Councillors: Bambridge, Bayford, Crow-Brown, Edwards, L Fairbrass, I Gregory, Johnston, Taylor-Smith and Taylor

AGENDA

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the extract from the Standard Board Code of Conduct for Members, which forms part of the Declaration of Interest Form 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.

3. **MINUTES OF PREVIOUS MEETING** (Pages 3 - 6)
To approve the Minutes of the meeting of the General Purposes Committee held on 17 January 2018, copy attached.
4. **EXCLUSION OF PUBLIC AND PRESS** (Pages 7 - 10)
5. **PROPOSED DELETION OF A CHIEF OFFICER POST** (Pages 11 - 14)

Declaration of Interest form - back of agenda

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GENERAL PURPOSES COMMITTEE

Minutes of the meeting held on 17 January 2018 at 1.00 pm in Council Chamber - Council Offices.

Present: Councillor Wells (Chairman); Councillors Bambridge, Campbell, Crow-Brown, Dellar, L Fairbrass, I Gregory, L Piper and Taylor-Smith

98. APOLOGIES FOR ABSENCE

Apologies were received from the following Members:

Councillor Bayford;
Councillor Johnston, substituted by Councillor Campbell;
Councillor Jeremy Fairbrass, substituted by Councillor Crow-Brown.

99. DECLARATIONS OF INTEREST

There were no declarations of interest.

100. MINUTES OF PREVIOUS MEETING

Councillor Lin Fairbrass proposed, Councillor Dellar seconded and Members agreed the minutes as a correct record of the meeting that was held on 24 November 2017.

101. EXCLUSION OF PUBLIC AND PRESS

Councillor Taylor-Smith proposed, Councillor Crow-Brown seconded and Members agreed that the public and press be excluded from the meeting for agenda item 5 as it contains exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

102. PENSION ADMISSION AND GUARANTEE

Dominic Whelan, Director of EK Services introduced the report and made the following points:

- KCC Superannuation Committee met in November 2017 and agreed that they would allow CIVICA UK Ltd to enter into the local pension scheme to allow staff with the current pension scheme to be transferred to CIVICA and be able to continue with the pension scheme arrangement if the contracting out decision is agreed by the EKSC;
- The parties to the agreement are KCC, TDC (as the Scheme Employer) and CIVICA UK Ltd;
- Guarantee or the Bond – Mr Whelan explained that an Actuarial report was commissioned that detailed the costs and liabilities pertaining to the group of staff potentially transferring from TDC to Civica. The actuarial report indicated that CIVICA would need to make a certain level of employers contribution to the scheme and it also outlined an amount of potential liability that KCC requires to be guaranteed.
- This liability was either to be mitigated through a provision of an insurance bond or the provision of a guarantee in the form of an Indemnity from the Scheme Employer. Civica was willing to provide an Insurance Bond but the costs would be factored into the contract;

- Mr Whelan explained that the three Council Finance Directors had reviewed this situation and it was recommended that the best way to maintain best value was for Thanet District Council to provide the guarantee to KCC;
- The risk was limited as any liabilities would be shared between CCC, DDC and TDC and in reality any situation that may arise giving rise to the creation of a liability (such as Civica nonpayment of contributions or Civica going in administration or filing for bankruptcy) would be known about quickly and would result in a contract termination and the staff would reverse TUPE back to councils with the pension liabilities.
- External legal advice had been sought in arriving at that position and this was summarised within the report.
- Mr Whelan also stated that, following a restructure within EKS, a new position of Head of Shared Services / Client had been created (nil cost as this was a move following deletion of an equivalently funded post). This role would become a Deputy Chief Officer position, who would become the main client officer to manage to contract under consideration. The Committee was asked to approve this role being created as a Deputy Chief Officer, in order for the Head of Paid Service to enact any requirements necessary to formalise this position.

Tim Willis, Director of Corporate Resources confirmed that Thanet District Council was no more exposed with regards to this guarantee than any of the other participating councils. The risk is shared equally amongst the councils in question.

In response to the presentation, Members raised the following questions:

- Will the new arrangement mean that all of CIVICA staff or just the ones being transferred over from local government be part of the pension scheme arrangement?
- Is there no contradiction in the report where it is reported that the contract will avoid £1,2 million redundancy costs and the generation of a large number of jobs?
- Why was there a proposal to create a new senior manager post and who was paying for it. Was this post not contributing to the growth of the budget costs?
- What did 'hold harmless' mean in relation to the contract?

In response Mr Whelan said the following:

- Only local government employees who are currently on the local pension scheme will have the right to continue with the scheme after being transferred to CIVICA; the Scheme would be a 'closed scheme' and therefore over time the amount of people within the scheme would reduce.
- This 'natural wastage' will reduce the liability over time as individuals leave employment on retirement or move off to other employment;
- Mr Whelan reminded Members of the original Business Case for undertaking this potential contracting out which included:
 - o The CIVICA contract will avoid potential redundancies and therefore protect services
 - o If the new contract was not entered into, there would be a need for EK Services to look for a new £2 million investment to remain viable;
 - o The establishment of a south east trading hub based in the current locations, Thanet Canterbury and Dover;
 - o The hub will bring in job creation and there will be a 50-50 profit share;
- The new senior management post is not growth. An old post was deleted through a restructure and replaced with this proposed post; The post holder will oversee the management of the CIVICA contract as a client officer;

- 'Hold harmless' indemnifies both parties against risk for areas where there is a significant cost which has to be priced into a contract. This will increase significantly the price of the contract. By adhering to the principle of 'hold harmless' the risk will not be factored into the contract;
- Officer can pick this up as an action point and will make arrangements to invite a lawyer to formally give legal advice formally at a committee meeting to clarify the issue of 'hold harmless.'

Councillor Campbell proposed, Councillor Lin Fairbrass seconded and Members agreed the following:

1. Note that Kent County Council Superannuation Committee has given approval for Civica UK Ltd to enter into the Kent Local Government Pension Scheme (LGPS) subject to the three East Kent Councils that govern EK Services (TDC, CCC and DDC) contracting out certain EK Services responsibilities to Civica UK Ltd;
2. Note that this will provide for any transferring EK Services staff (who are employees of TDC) to maintain their rights to be in the LGPS for the duration that such a contract is in force and to further note that such agreement will result in an Admission Agreement document being entered into by three parties: Kent County Council, Civica UK Ltd and Thanet District Council (as the Scheme Employer);
3. Authorise Thanet District Council (as the Scheme Employer) to enter into the Admission Agreement between Kent County Council for the purposes of allowing Civica UK Ltd to join the Kent LGPS and thus allow the transferring staff to maintain access to the scheme for the duration of the contract; and authorise the Director of Corporate Governance to undertake such actions as may be necessary to give effect to this approval;
4. Further note that the Kent County Council Superannuation Committee has agreed that such an Admission into the scheme (of Civica UK Ltd) can be subject to the provision of a Scheme Employer Guarantee rather than the provision of a Bond. This is the favourable option as it provides best financial value;
5. Agree the provision of a guarantee to the Kent Superannuation Fund in the form suggested and authorise the Director of Corporate Governance to undertake such actions as may be necessary to effect this;
6. Note the changes to the EK Services management structure that have been made in the interests of efficiency and to agree the designation of the post of Head of Shared Services as a Deputy Chief Officer from a future date to be determined by the Director of Corporate Resources.

Meeting concluded: 1.25 pm

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EXCLUSION OF PUBLIC AND PRESS

General Purposes Committee	16 March 2018
Report Author	Senior Democratic Services Officer
Status	For Decision
Classification:	Unrestricted
Key Decision	No

Executive Summary:

The purpose of the report is to introduce a confidential item for discussion by the committee.

Recommendation:

That the public and press be excluded from the meeting for agenda item 5 as it contains exempt information as defined in Paragraphs 2,3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no direct financial implications arising from the covering report.		
Legal	As per Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as amended).		
Corporate	Thanet District Council will endeavour to keep the number of exempt reports it produces to a minimum in order to promote transparency.		
Equality Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.		
	Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.		
	Please indicate which aim is relevant to the report.		
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it		
Foster good relations between people who share a protected characteristic and people who do not share it.			

	There are no specific equity and equality considerations that need to be addressed in this report.
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CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	

1.0 Introduction and Background

- 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 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as Amended) and is as shown below:

Paragraph 2

- 2.2 Information that is likely to reveal the identity of an individual.

Paragraph 3

- 2.3 Information relating to the financial or business affairs of a particular person.

NB Information is not exempt if it is required to be registered under:

- Companies Act 1985;
- Friendly Societies Acts 1974 and 1992;
- Industrial and Provident Societies Acts 1965 to 1978;
- Building Societies Act 1986;
- Charities Act 1993.

The rights of access by Members are contained in Section 100F of the 1972 Act.

Paragraph 4

- 2.4 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.

3.0 Reason Why Agenda Item 5 are considered to be “exempt”

- 3.1 The report author has classified Agenda Item 5 as disclosing exempt information under Paragraphs 2,3 and 4 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended); - Information that is likely to reveal the identity of an individual; Information relating to the financial or business affairs of a particular person and 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, 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 Agenda item 5 is restricted as the information contained within it is exempt under paragraphs 2, 3 and 4 of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended). Whilst the Council will always try to keep exempt information to a minimum, in this case disclosure of the information contained within the report would prejudice the Council. On this occasion, discussion of staffing matters ought to be conducted in confidence in order to protect the interests of both the staff and council as breach of confidentiality may lead to litigation against the council.
- 4.2 It is therefore considered that the public interest is served by the non-disclosure of the information contained within the report at agenda item 5.

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(s). 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 Members may wish to note that if a committee member is of the view that it is possible that the recommendation in this report may not be approved at the meeting, they should let Democratic Services know (as soon as they have read the agenda papers before the meeting); in order that spare copies are made available ready to be distributed, if necessary, at the meeting.
- 5.3 If the referred item is not exempted, Democratic Services would also make arrangements for the report to be retrospectively published on the Council’s website.

6.0 Decision Making Process

- 6.1 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:	Charles Hungwe, Senior Democratic Services Officer
Reporting to:	Nick Hughes, Committee Services Manager

Annex List

None	N/A
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Corporate Consultation

Legal	Tim Howes, Director of Corporate Governance
Finance	Tim Willis, Director of Corporate Resources

By virtue of paragraph(s) 2, 3, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

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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 £25 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 Committee Services Manager well in advance of the meeting.

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

MEETING.....

DATE..... AGENDA ITEM

DISCRETIONARY 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.

