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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**

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**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

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### 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.

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### Corporate Consultation Undertaken

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