

EXCLUSION OF PUBLIC AND PRESS

Cabinet **03 October 2017**

Report Author **Senior Democratic Services Officer**

Status **For Decision**

Classification: **Unrestricted**

Key Decision **No**

Executive Summary:

The report requests Cabinet to consider exempting part of the information and discussion relating to business case report as it contains commercially confidential information.

Recommendation:

That the public and press be excluded from the meeting for the consideration of annexes 3, 4 and 6 of agenda item 10 as it contains exempt information as defined in Paragraph 3 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 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	<p>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.</p> <p>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.</p> <p>Please indicate which is aim is relevant to the report.</p> <table border="1"><tr><td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td><td></td></tr><tr><td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td><td></td></tr><tr><td>Foster good relations between people who share a protected characteristic and people who do not share it.</td><td></td></tr></table>	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.	
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	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

Paragraph 3

- 2.1 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.

3.0 Reason Why Annexes 3, 4 and 6 of Agenda Item 10 are considered to be “exempt”

- 3.1 The report author has classified Annexes 3, 4 and 6 of Agenda Item 10 as disclosing exempt information under Paragraph 3 – Information relating to the financial or business affairs of a particular person of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

4.0 Justification/Public Interest Test

- 4.1 Annexes 3, 4 and 6 of Agenda item 10 is restricted as the information contained within it is exempt under paragraph 3 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 certainly prejudice the Council because it would adversely affect the ability of East Kent Services to negotiate the most advantageous terms and conditions of a contract to supply services.
- 4.2 It is therefore considered that the public interest is served by the non-disclosure of the information contained within the report at Annexes 3, 4 and 6 agenda item 10.

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.

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Annex List

None	N/A
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Corporate Consultation

Legal	Tim Howes, Director of Corporate Governance & Monitoring Officer
Finance	Ramesh Prashar, Head of Financial Services