

EXCLUSION OF PUBLIC AND PRESS

Council	14/10/2021
Report Author	Nick Hughes
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider whether to exclude the press and public for the consideration of agenda item 19.

Recommendation:

That the public and press be excluded from the meeting for agenda item 19 as it contains exempt information as defined in Paragraphs 2 and 5 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

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.

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

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

Information which is likely to reveal the identity of an individual.

Paragraph 5

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

3.0 Reason Why Agenda Item 19 is considered to be “exempt”

- 3.1 The report author has classified Agenda Item 19 as disclosing exempt information under Paragraphs 2 and 5.

4.0 Justification/Public Interest Test

- 4.1 Agenda item 19 is restricted as the information contained within it is exempt under paragraphs 2 and 5 of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended). There is an expectation that in the interests of those involved and the council that these matters are not raised in public.

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 19.

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 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 to the recommendation.

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Annex List

None

Corporate Consultation

Finance: Chris Blundell, Head of Financial Services
Legal: Estelle Culligan, Director of Law and Democracy