

Exclusion of Press and Public

General Purposes Committee	02 December 2021
Report Author	Senior Democratic Services Officer
Portfolio Holder	Cllr Ashbee, Leader of the Council
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider whether to exclude the press and public for the consideration of agenda item 5.

Recommendation(s):

That the public and press be excluded from the meeting for agenda item 5 as it contains exempt information as defined in Paragraphs 1, 2, 3, 4 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, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To 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.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Communities*

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.

2.0 Meaning of confidential information

- 2.1 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.

3.0 Exempt Information - discretion to exclude the public

- 3.1 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.

4.0 Exempt Information

- 4.1 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 1

Information relating to an individual.

Paragraph 2

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

Paragraph 3

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Paragraph 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. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

Paragraph 5

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

5.0 Reason Why Agenda Item 5 is considered to be “exempt”

- 5.1 The report author has classified Agenda Item 5 as disclosing exempt information under Paragraphs 1, 2, 3, 4 and 5.

6.0 Justification/Public Interest Test

- 6.1 Agenda item 5 is restricted as the information contained within it is exempt under paragraphs 1, 2, 3, 4 and 5 of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended). This relates to a staffing matter. There is an expectation that in the interests of those involved and the council that these matters are not raised in public.
- 6.2 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.

7.0 Not Excluding the Press and Public

- 7.1 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”).
- 7.2 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.

7.3 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.

8.0 Decision Making Process

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

Contact Officer: Charles Hungwe (Senior Democratic Services Officer)

Reporting to: Nicholas Hughes, Committee Services Manager

Annex List

None

Background Papers

None

Corporate Consultation

Finance: Estelle Culligan, Director of Law & Democracy and Deputy Monitoring Officer

Legal: Chris Blundell, Director of Finance