

EXCLUSION OF PUBLIC AND PRESS

Cabinet	19 May 2022
Report Author	Estelle Culligan (Director of Law and Democracy)
Status	For Decision
Classification:	Unrestricted

Executive Summary:

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

Recommendation:

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

CORPORATE IMPLICATIONS

Financial and Value for Money

There are no direct financial implications arising from the report.

Legal

Part 1, paragraph 1 of Schedule 12A of the Local Government Act 1972 states that the following information is exempt information for the purposes of Access to Information: "Information relating to any individual."

Part 1, paragraph 3 of Schedule 12A of the Local Government Act 1972 states that the following information is exempt information for the purposes of Access to Information: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)."

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 Under the Local Government Access to Information Act 1985 and Regulations made under that Act, changes were made to the Local Government Act 1972 (LGA 1972), which regulate and promote the openness and transparency of council meetings. There are exceptions to this rule and section 100I of the LGA 1972 states that Schedule 12A of the LGA 1972 includes the list of issues which are confidential and therefore exempt from the Access to Information Procedure Rules and can be discussed in restricted session.

Exempt information – discretion to exclude public

- 1.3 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 as defined by Schedule 12A Part 1 of the LGA 1972.

2.0 Exempt information

- 2.1 The relevant section is paragraph 3 of Schedule 12A Part 1 of the Local Government Act 1972:

Paragraph 1

Information relating to any individual.

Paragraph 3

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

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

- 3.1 The report relates to individuals and contains personal information, the report also includes financial and business information of the authority.

4.0 Justification/Public Interest Test

- 4.1 The Council/Committee must consider the public interest test. Section 10 of part II of Schedule 12A states:

“Information which—

(a) falls within any of paragraphs 1 to 7 above.....is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

4.2 As the report contains personal information about the individual, it is 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 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: N/A

Legal: N/A