

EXCLUSION OF PUBLIC AND PRESS

Cabinet	22 August 2024
By	Ingrid Brown, Head of Legal and Democracy & Monitoring Officer
Key Decision	No
Decision classification	Unrestricted
Ward:	Thanet Wide

Purpose of the Report

To consider whether to exclude the press and public for the consideration of agenda item 11 on the basis that the information contained in the documents for the report under consideration is about business affairs that would breach Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

Recommendation(s):

That the public and press be excluded from the meeting for agenda item 11 as it contains exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

1. Summary of Reasons

- 1.1 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. Background

- 2.1 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.

3. Relevant Issues

3.1 Meaning of confidential information

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.

3.2 Exempt information – discretion to exclude public

The public may be excluded from meetings when the business to be transacted or the nature of the proceedings would result in the disclosure of “exempt” information.

3.3 Exempt information

Information that may be regarded as exempt is set out in Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as Amended). One category of exempt information is information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

3.4 Reason Why Agenda Item 11 is considered to be “exempt”

The report author has classified Agenda Item 11 as disclosing exempt information under Paragraph 5 Part 1 of Schedule 12A Local Government Act 1972.

3.5 Justification/Public Interest Test

Agenda item 11 is restricted as the information contained within it is exempt under paragraph 5 of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended). If this information were disclosed it could prejudice potential legal proceedings as it is information that would be subject to legal professional privilege.

3.6 Not Excluding the Press and Public

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”).

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.

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.

3.7 Decision Making Process

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

4. Alternative Options

- 4.1 The alternative is to choose not to exempt the following item in question. However, officers are obliged to provide appropriate legal advice to Councillors for the consideration of confidential information during Committee meetings. This option, therefore, is not considered by officers to be viable.

5. Consultation

- 5.1 There is no requirement for public consultation regarding this report.

6. Corporate Implications

6.1 Finance and Resources

- 6.1.1 There are no financial implications arising directly from this report.

6.2 Legal and Constitutional

- 6.2.1 The relevant legislation is Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). This is referred to in the body of this report below. The public interest test in exempting this information has been properly applied.

6.3 Council Policies and Priorities

- 6.3.1 This report relates to the following corporate priorities: -

- To work efficiently for you

6.4 Risk

- 6.4.1 The Council is currently in pre-proceeding correspondence with

6.5 Climate Change and Biodiversity

- 6.5.1 There are no climate change and biodiversity implications arising directly from this report.

7. Equality, Equity and Diversity Implications

- 7.1 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 equality considerations arising directly from the decision sought to exempt information as set out in this report.

8. Crime and Disorder Implications and Community impact

8.1 There are no crime and disorder implications or any community impact arising directly from this report.

9.0 Subject History

9.1 This report relates to the exclusion of the public and press in order to comply with Legal obligations relating to Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

Report Author(s) Contact: Charles Hungwe, Deputy Committee Services Manager
telephone: 01843 577186
email: charles.hungwe@thanet.gov.uk

Annexes

None

Background Papers

None

Report Sign Off:

Legal: Ingrid Brown- Head of Legal and Democracy and Monitoring Officer

Finance: Matthew Sanham - Head of Finance, Procurement and Risk