

EXEMPT INFORMATION

To: **Commercial and Investments Committee**

Meeting Date: **20 October 2017**

From: **Monitoring Officer**

Electoral division(s): **All**

Forward Plan ref: **Not applicable** *Key decision:* **No**

Purpose: **To note the requirements and factors to consider for the exemption of information within Commercial and Investments Committee meetings under Schedule 12A Local Government Act 1972**

Recommendation: **a) to note the contents of this report**

<i>Officer contact:</i>	<i>Member contact:</i>
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1. BACKGROUND

- 1.1 The Local Government Act 1972 (the Act) requires all reports, deliberations and decisions made by committees to be public. However the press and public can be excluded from meetings and documents and information restricted where an exemption under Schedule 12A of the Act applies. Once an exemption is engaged it will only apply if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosure.
- 1.2 In order to ensure that the exclusion of the press and public only takes place when necessary, guidance on the legal position has been requested.

2. LEGAL POSITION

Exemptions

- 2.1 There are seven categories of exemption:
1. *Information relating to any individual.*
 2. *Information which is likely to reveal the identity of an individual.*
 3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information).*
 4. *Information relating to any consultations or negotiations 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.*
 5. *Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*
 6. *Information which reveals that the authority proposes—*
 - (a) *to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or*
 - (b) *to make an order or direction under any enactment.*
 7. *Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime*
- 2.2 An exemption will only apply if and so far as the public interest in maintaining the exemption outweighs the public interest in disclosure of the information.
- 2.3 For the purposes of the Commercial and Investments Committee the third exemption, information relating to the financial or business affairs of any particular person, would normally be the most relevant. This exemption is often termed the commercial sensitivity exemption.
- 2.4 The exemptions are detailed more fully together with further guidance in the Cambridgeshire County Council Access to Information Rules an extract of which (Rules 11 and 12) is attached as Appendix A.

Public Interest Test

- 2.5 For the purposes of exemptions under the Local Government Act 1972 the public interest is taken to mean the public good or what is in the interests of the public to know.

- 2.6 In carrying out the public interest test, the arguments in favour of disclosing **and** those in favour of maintaining the exemption should be considered. This should be done objectively recognising that there are always arguments to be made on both sides.

Procedure

- 2.7 Before deciding to exclude the press and public the Committee needs to determine (i) that an exemption is engaged and (ii) that the public interest in maintaining the exemption outweighs the public interest in disclosure of the information to be considered during the item.
- 2.8 A number of factors will be relevant in this regard and they are detailed in the Protocol attached as Appendix B.

3. ALIGNMENT WITH CORPORATE PRIORITIES

Ensuring the correct application of the legislative exemptions contributes to the smooth running of the Council and supports the development of the local economy for the benefit of all.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

There are no resource implications arising directly from this report.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no such implications arising directly from this report.

4.3 Statutory, Legal and Risk Implications

None save as detailed within the report.

4.4 Equality and Diversity Implications

Although the financial, business and commercial affairs exemption would not normally affect a group of people with a protected characteristic, if this were to occur, the public interest test would include consideration of such impact and would fully comply with the requirements of the Public Sector Equality Duty and current Council standards.

4.5 Engagement and Communications Implications

None save as detailed within the report.

4.6 Localism and Local Member Involvement

None arising directly from this report.

4.7 Public Health Implications

There are no public health implications arising directly from this report.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	N/A
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	N/A
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes Name of Legal Officer: Maria Damigos
Have the equality and diversity implications been cleared by your Service Contact?	N/A
Have any engagement and communication implications been cleared by Communications?	Sent to Matthew Hall on 11 October 2017
Have any localism and Local Member involvement issues been cleared by your Service Contact?	N/A
Have any Public Health implications been cleared by Public Health	N/A