

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA 1133/16

Meeting / Decision: Cabinet

Date: Wednesday 13th July 2016

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Report Title: Future of Adoption Services; Adoption West Proposals and Engagement

List of attachments to this report:

1. Adoption West vision and outcomes document (Open)
2. Adoption West services in scope (Exempt)
3. Profile of the Adoption West service user, staff and financial information (Exempt)
4. Delivery model options appraisal document (Bevan Brittan LLP report) (Exempt)
5. Adoption West Project plan (Exempt)
6. Public, service user and staff engagement document (Exempt)
7. Adoption West Governance Structure (Exempt)
8. Potential Delivery Model Options (Exempt)

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

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

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemptions outweigh the public interest in

disclosure at this time. It is therefore recommended that the exempt information set out above be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in decisions relating to employee dismissals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s identified within the appendices could bring a successful action against the Council if the disclosure occurred.

The officer responsible for this item also believes that this information falls within the exemption under paragraph 3 and 5 and this has been confirmed by the Council's Information Compliance Manager. It is necessary to weigh up the arguments for and against disclosure on public interest grounds. The main factor in favour of disclosure is that all possible Council information should be public and that increased openness about Council business

allows the public and others affected by any decision the opportunity to participate in debates on important issues in their local area. Another factor in favour of disclosure is that the public and those affected by decisions should be entitled to see the basis on which decisions are reached.

Weighed against this is the fact that the exempt appendices contain strategic and financial information about the proposal, which is commercially sensitive and could prejudice the commercial interests of the organisation if released. It would not be in the public interest if advisors and officers could not express in confidence opinions or proposals which are held in good faith and on the basis of the best information available. It is also important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion. Without such confidence, there are risks of lack of openness between client and lawyer and threats to the administration of justice. This thereby enables a public body to have confidence that legal issues are being discussed fully. There is an important public interest in such confidence.

It is also important that the Committee should be able to retain some degree of private thinking space while decisions are being made, in order to discuss openly and frankly the issues under discussion in order to make a decision which is in the best interests of the parties.

Therefore it is recommended that exemptions 1,2, 3 and 5 in Schedule 12A stand, that the exempt information be discussed in exempt session and that any reporting on the meeting is prevented in accordance with Section 100A(5A)