

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA 852460

Meeting / Decision: Cabinet

Date: 26<sup>th</sup> May 2022

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**Report Title:** HCRG Care Group Options Appraisal

**Exempt Appendix 1:** BDO Supplier Due Diligence Review

Appendix 2: HCRG Care Group Risk Analysis Table

Appendix 3: HCRG Care Group Options Appraisal

**Exempt Appendix 4:** Legal advice

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:

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 exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Exempt Appendices 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 Cabinet wish to consider a matter with press and public excluded, they must be satisfied on two matters.

Firstly, they 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:

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.

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 information about property acquisition being disclosed into the public domain. 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;

Weighed against this is the fact that the exempt appendices contains strategic and financial information which could prejudice the commercial interests of the Council if disclosed at this time. The exempt appendices also includes observations and opinions regarding the proposal. It would not be in the public interest if advisors and officers could not express in confidence opinions which are in good faith and on the basis of the best information available. It is important for public authorities to have some measure of 'private thinking space', and that they are able to share important information with Elected Members tasked with representing the local community.

The Council's funds are in essence public funds and there is an obligation to obtain best value for money. Disclosure of this information would prejudice the Council's ability to ensure it obtains best value in this matter. It is in the public interest that the Council is able to deliver cost-effective solutions. This depends partly on the Council being able to protect its commercial position while the detailed terms of relevant schemes are agreed.

It is considered that legal advice within the exempt appendices is subject to legal professional privilege. The principle of ensuring access to full and frank legal advice is fundamental to the administration of justice. Although the Council aim to be transparent and accountable to the public, in this case the safeguarding of openness in all communications between the client and lawyer overrides the public interest in disclosure.

It is considered that the public interest is best served in this matter by not releasing this information at this time and that a significant amount of information regarding the matter has been made available on these issues – by way of the main report. Relevant information regarding this matter will be put in the public domain at the appropriate time. Therefore it is recommended that exemptions 3 and 5 apply. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A).