

Private Items for Committee

1.0 EXECUTIVE SUMMARY

This report provides information on the numbers of reports which are submitted to Council and its Committees and also gives detail on the numbers of reports which are considered under the exclusion of the public (exempt items). The report also provides some background to the reasons for items being considered in private session.

Members are asked to note the contents of the report.

Private Items for Committee

2.0 INTRODUCTION

- 2.1 This report provides information on the number of reports which are submitted to Council and its Committees and gives details on the number of reports which are considered following the exclusion of the public (exempt items).

3.0 RECOMMENDATIONS

- 3.1 The Council is asked to note the contents of the report.

4.0 DETAIL

- 4.1 The Council Constitution states at Standing Order 7 that “Every meeting of the Council, its Committees, Sub-Committees and Short Life Working Groups will be open to the public, except in special circumstances”. One of these circumstances being when an item of business is being considered, it is likely because of the business itself or what might be said, that confidential information would be given to members of the public.
- 4.2 In this circumstance there is provision in the Local Government (Scotland) Act 1973 which allows for the Members to decide by passing a resolution to exclude the public for the particular item of business. The resolution will make clear which part of the proceedings that the exemption will apply to and will provide a reason for this using the relevant Paragraph from Section 50A(2) of the 1973 Act.
- 4.3 When agendas are issued, only those items which are intended to be heard in public are published on the Council website and made publically available. However, it is for Members to decide at the meeting if they wish to pass the resolution and consider the item in private session. In circumstances where Members have agreed that the item of business should be heard in public session, the relevant report(s) are then uploaded to the Council website for public viewing. Officers who are submitting reports to Council or Committee will seek advice regarding the contents of their reports and on the agenda for meetings it is made clear which items have been considered to contain confidential information, these are marked with an “E” on the agenda.

- 4.4 Council meetings may consider items which contain commercially sensitive information or could disclose the intentions of the Council in relation to ongoing proceedings (for example Compulsory Purchase Orders).
- 4.5 Information is provided at Appendix 1 on the numbers of reports that have been submitted to Council and its Committees over the most recent Committee Cycle from December 2015 to September 2016. It can be seen from the figures that 10% of the reports which have been put to the Council or Committee have been considered when the public have been excluded which is 3.8% less than when this was previously reported to Council in 2015. It should also be highlighted that there has been occasion where there have been items which have been partly considered in public and partly considered in private – for example some of the reports to the Oban Area Committee and to Policy and Resources Committee which relate to the Lorn Arc project, when the main report was considered in public but the Appendices were considered in private. This is another example of efforts made to put matters into the public domain and shows that officers work closely with colleagues in Governance and Law to ensure that as many reports are considered in public.
- 4.6 It should be noted that although officers will recommend that an item contains confidential information and should be considered in private session, the final decision on whether to exclude the press and public lies with the Members.
- 4.7 The table in the Appendix also shows that there are some Committees where the nature of the business being considered has meant an increase in the number of exempt items. This is particularly well illustrated in relation to the business being considered by the Area Committees, where the CHORD projects are still being progressed or where a property disposal is involved there is higher instance of exempt papers being considered.
- 4.8 The reasons for exemption are also outlined in the Appendix, with the majority of the instances being where there is information contained which relates to the terms of a contract (Appendix 2 lists the reasons which are attached to each Paragraph from the 1973 Act). The PPSL Committee also has regular reports on enforcement action and this is reflected in the relatively high number of Paragraph 13 exemptions for this Committee. Also relating to the PPSL Committee there are a number of hearings considered by this Committee and it should be noted that the Council has taken the view that the majority of these will be heard in public. This practice varies across Scottish Local Authorities, with just over two thirds of Authorities holding their Civic Government Hearings partly or fully in private session. This demonstrates that the Council is working to have as much information in the public domain as is possible.

5.0 CONCLUSION

- 5.1 This report provides information on the numbers of reports which are being considered in private session by the Council and its Committees. Where a report is considered in private, this is decided by the Members of the Committee who have to agree to pass a resolution to exclude the public from the meeting. Officers work closely with colleagues in Governance and Law to ensure that

where possible reports are considered in public, but also to ensure that where appropriate reports are properly considered in private. Therefore, it is important to note that the number of reports which are considered in private session is dependent on a number of factors as previously outlined.

- 5.2 The Head of Governance and Law has reviewed the use of exempt paragraphs for the period and is of the opinion that there was a reasoned justification for each of these. The majority of cases are to support tendering processes, to protect financial affairs of third parties or in respect of the contemplation of planning enforcement action. The justification for taking such items in private will rarely, if ever, give rise to contention and are clearly based on objective reasoning and the figures in the table should be considered in the context that many occasions are actually related to the same item being considered on a number of occasions.

6.0 IMPLICATIONS

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| 6.1 | Policy | None |
| 6.2 | Financial | None |
| 6.3 | Legal | None |
| 6.4 | HR | None |
| 6.5 | Equalities | None |
| 6.6 | Risk | None |
| 6.7 | Customer Service | None |

Executive Director of Customer Services

Policy Lead – Councillor Dick Walsh

25th October 2016

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APPENDICES

Appendix 1 – table of Exempt items

Appendix 2 – reasons for exemption

Paragraphs from Part 1 of Schedule 7a to the Local Government (Scotland) Act 1973

- 1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former office-holder or applicant to become an office-holder under, the authority.
- 2 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.
- 3 Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.
- 4 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.
- 5 Information relating to the adoption, care, fostering or education of any particular child or relating to the supervision or residence of any particular child in accordance with a supervision requirement made in respect of that child under the M1Social Work (Scotland) Act 1968.
- 6 Information relating to the financial or business affairs of any particular person (other than the authority).
- 7 Information relating to anything done or to be done in respect of any particular person for the purposes of any of the matters referred to in section 27(1) of the Social Work (Scotland) Act 1968 (providing reports on and supervision of certain persons).
- 8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
- 9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
- 10 The identity of the authority (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.
- 11 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.

- 12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with—
 - (a) any legal proceedings by or against the authority, or.
 - (b) the determination of any matter affecting the authority, (whether, in either case, proceedings have been commenced or are in contemplation).

13. Information which, if disclosed to the public, would reveal 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.

- 14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

- 15 The identity of a protected informant.