



Report author: Dave Almond
Tel: 247 8181

Report of Head of HR

Report to Scrutiny Board (Resources and Council Services)

Date: 5 September 2011

Subject: Employees' declarations of interest

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Scrutiny Board (City Development) have asked this Board to inquire into the system for employees to declare interests, and to form a view as to whether it is fit for purpose.
2. Current levels of returns and targeted work, to make sure that decision making and recommendations are not influenced by outside interests, are adequate.
3. The HR service is consulting on amendments to the process as part of an ongoing review.

Recommendations

1. The Board notes the content of this report and provides comment for consideration during an ongoing review of the declaration of employee interests.

1 Purpose of this report

1.1 To inform the Board about:

- the current arrangements for employees to declare interests
- the effectiveness of arrangements in 2011
- a scheduled review of the current arrangements

2 Background information

- 2.1 On 17 May 2011 the Scrutiny Board (City Development) resolved “that Scrutiny Board (Resources and Council Services) be asked to undertake an inquiry on [employee’s] declarations of interest to identify the effectiveness of the current arrangements and whether [they] are fit for purpose.”
- 2.2 The current arrangement is that employees in ‘high risk’ positions are emailed once a year and instructed to declare their interests. Directors review the list of high risk positions every year and the list was last updated in March 2011.
- 2.3 Declarations from employees in high risk positions are tracked and reminders are sent to ensure that they all make a declaration. All the declarations, including ‘nil returns’ are sent to the relevant Director for them to check and deal with accordingly.
- 2.4 It is employees’ responsibility to declare any potential conflicts of interest and it is the responsibility of Directors to review and act upon such declarations. HR are responsible for putting in place the process to enable this to happen. The last time employee declarations of interest were collected was in April 2011 and they will be collected again in early 2012.
- 2.5 It is important to stress the requirement for all employees to declare any relevant interests, so a general message is sent out annually to remind all employees of this requirement.

3 Main issues

3.1 Current situation

- 3.1.1 With the assistance of HR, Directors identified 2135 employees in high risk posts in March 2011. These are posts, which due to the nature of their roles, Directors consider to be at a higher risk of having potential conflicts of interests. Criteria for identifying high-risk posts are published on the intranet and are also included as an appendix to this report.
- 3.1.2 These employees are expected to submit their declarations of interests even if they have nothing to declare.
- 3.1.3 All employees in high risk posts were emailed in April 2011 and were instructed to complete declaration of interests forms.
- 3.1.4 In April 2011 all staff were reminded of their duty to declare any interests which could conflict with the council’s interests. This is because all employees have an

obligation to declare, to their Director, any interests which could conflict with the council's interests

- 3.1.5 Furthermore, any officers with pecuniary interests in a delegated decision are not permitted to take that decision; and all Delegated Decision Notification forms require the officer completing the form to declare any interests they may have.

3.2 Rate of declarations for high-risk posts

- 3.2.1 2135 employees were identified in posts deemed by Directors to be high-risk and declarations have been received back from 2094 employees. This equates to a 98% response rate and the remaining 2% are being actively chased.
- 3.2.2 Failure to make a declaration can be considered as misconduct and may, depending upon individual circumstances, be gross misconduct. To date, disciplinary action has not been used to secure returns.
- 3.2.3 Directors were sent details of all declarations and they were asked to intervene to ensure that all employees in high risk posts make a declaration.

3.3 Assessment of risk of conflict of interests

- 3.3.1 Of the 2094 returns, 1571 employees reported that they had no interests. This information was provided to Directors in case they were aware of any matters which they would have expected to be declared. In such cases the Director (or their nominee) discuss the matter with the employee. (Making a fraudulent declaration of interests is misconduct and may, depending upon individual circumstances, be gross misconduct.)
- 3.3.2 Where an employee made a declaration the information was passed to their Director to assess whether that interest represented a current or potential conflict of interest.
- 3.3.3 A degree of service specific knowledge is vital in assessing the risk of conflict from any declared interest, so assessments are not made centrally. Guidance on reviewing declarations is published on the intranet and is attached as an appendix to this report.

3.4 Publication of employees' declarations of interest

- 3.4.1 Legal advice (see 4.5) is that publication of employees' declarations of interest is not permitted within the terms of Data Protection Act 1998.
- 3.4.2 The details of interests provided by employees in their declarations is their "personal" data under the Data Protection Act 1998. In some instances, information declared under "close relationships" and "other interests" may also be classed as their "sensitive personal data". Personal data falls within the protection of the Human Rights Act 1998 and it would be unlawful of the council to act in a way which contravened that legislation, i.e. by publishing employee declarations.

3.5 Moving forward

3.5.1 Arrangements for the declaration of employee interest's are scheduled to be reviewed by the end of March 2012 as part of a wider review of people management policies and procedures.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The HR service has consulted with internal audit and legal services during the preparation of this paper.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Not applicable.

4.3 Council Policies and City Priorities

4.3.1 The current regime for employee declarations of interests addresses the need to be open, honest and trusted.

4.4 Resources and Value for Money

4.4.1 The current processes are managed using existing resources. We do not have sufficient resources at present to request, process and follow-up on declarations / non-declarations for the entire workforce, without having a substantial negative effect on other areas of priority work.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Advice from Legal Services was that publishing unedited employee declarations of interests could be considered a breach of data protection. The maximum penalty that could be imposed, by the Information Commissioner, for a serious contravention of data protection principles is £500,000.

4.6 Risk Management

4.6.1 The current scheme already focuses on the areas of highest risk.

5 Conclusions

5.1 The current scheme for declaration of employee interests has led to almost 100% returns from employees in the posts which need to be checked. This process is proportionate to the risk.

5.2 Directors are aware of their duty to ensure that actual / potential conflicts of interests are identified and addressed.

6 Recommendations

6.1 The Board is asked to:

6.1.1 Note the content of this report.

6.1.2 Advise on any improvements which it believes should be considered to employee declarations of interest.

7 Background documents

7.1 Report of Head of Human Resources (HR Governance) to the Scrutiny Board City Development

7.2 Reports to the Standards Committee: "Officer declarations of interest and register of offers of gifts and hospitality", 11 April 2007; "Officer declarations of gifts and hospitality", 10 October 2007;

7.3 Guidance notes: "Reviewing register of interest declaration" and "Identifying High Risk Posts", attached.