

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 5th April 2013

Subject: Councillors acting for developers – Recent national press coverage

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<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: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The purpose of this report is to draw the Committee's attention to recent publicity regarding the alleged practice of Councillors acting for developers within their own authority for a fee. These stories have appeared in the national press, and the Government has responded to them by press release and letter.
2. Such practices are likely to be contrary to the general principles of public life, and although Councillors may not breach the rules regarding disclosable pecuniary interests if they are not involved in the decision making process, they may commit the common law offence of misconduct in public office.
3. The register of interests held by Leeds City Council has been reviewed in the light of this publicity, but no Councillors have registered an interest in planning consultancy services operating within the Leeds City Council area.

Recommendations

4. Members of the Standards and Conduct Committee are asked to note the information contained in this report, and to consider whether any further action is required.

1 Purpose of this report

- 1.1 The purpose of this report is to draw the Committee's attention to recent publicity regarding the alleged practice of Councillors acting for developers within their own authority for a fee. These stories have appeared in the national press, and the Government has responded to them by press release and letter.

2 Background information

- 2.1 The Standards and Conduct Committee has a duty to promote and maintain high standards of conduct amongst Leeds City Councillors. As such the Committee is being asked to note the information in this report and to consider whether any further action is necessary to address the national issues raised.

3 Main issues

- 3.1 On 10th March 2013 the Telegraph newspaper published a story claiming that Councillors across the country are offering themselves for hire to property developers in order to receive fees of up to £20,000 for advice on how to get developments approved. The article particularly highlighted three Councillors in East Devon, Newcastle and Surrey.
- 3.2 In one of the cases highlighted in the article the Member involved has since resigned from the Council, and has been referred to the Police by the local authority under the Bribery Act 2010 and the Council's own policy on fraud, theft and anti-corruption.
- 3.3 Separately the article alleged that a 'lobbying company' was boasting to potential clients that it employs Councillors, and Councillors who have set up their own consultancy services are also offering to help push through planning applications.
- 3.4 One company, Indigo Public Affairs, have responded to the article stating that all Councillors that they employ have registered their employment in the Council's register of interests, and that the company's Code of Conduct prohibits all members of staff who are serving Councillors from making representations to anyone on behalf of any client of the company regarding a decision of the local authority on which they serve.
- 3.5 Indigo Public Affairs also state that the purpose of the company is the help developers consult with and listen to local communities and their elected representatives to find out what they actually want when new developments are proposed.
- 3.6 Local Government Minister Brandon Lewis responded to the article on 11th March 2013 stating the Councils should adopt a Code of Conduct which is consistent with the general principles of public life, with Councillors declaring any private interests that relate to their public duties and taking steps to resolve any conflicts arising in a way that protects the public interest.
- 3.7 The press release also stated that it is now a criminal offence to fail to declare or register disclosable pecuniary interests, which includes any employment or trade

carried out for profit or gain, and that Councillors should act in an open and transparent way, to avoid conflicts of interest on issues such as planning applications or benefitting financially from the issuing of council contracts.

- 3.8 However, although it would be a criminal offence for a Councillor to fail to register such employment, this disclosable pecuniary interest would not prevent them from being involved in the planning process so long as they were not involved in the decision itself.
- 3.9 In addition, the Secretary of State for Communities and Local Government wrote a letter responding to the issues raised in the article. The Secretary of State stated that it is unacceptable for Councillors to be receiving any form of payment to lobby their own Council, which would be a clear breach of the general principles of public life. The letter from the Secretary of State is attached as Appendix 1 to this report.
- 3.10 The Department's own illustrative Code of Conduct states:
- "You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person to act to gain financial or other material benefits for yourself, your family, a friend or close associate."
 - "You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties."
 - "You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest."
- 3.11 Although the wording of the Leeds City Council Members' Code of Conduct differs from the Department's illustrative Code, it is considered that the above points are still sufficiently covered. The Leeds City Council Code of Conduct is attached as Appendix 2 for information.
- 3.12 In his letter the Secretary of State also set out that depending on the circumstances of the case, the receipt of such payments to lobby could also constitute a criminal offence under the Bribery Act 2010, in that "payments to a Councillor to misuse or abuse their privileged position in their local authority to induce favours or advantage to one party in that Council's planning process could entail 'improper performance', by virtue of being a breach of the expectation of good faith by holders of public office and breach of their position or trust".
- 3.13 Furthermore the Bribery Act also covers those who promise or provide such payments, whether they are individuals or consultancy firms, so "those who offer financial advantage to any Councillor to attempt to influence the planning process in their local authority are themselves potentially committing a criminal offence."
- 3.14 In response to these issues the Deputy Monitoring Officer has reviewed the Register of Interests held by Leeds City Council and has not identified any

Members who provide planning consultancy services within the Leeds City Council area.

- 3.15 Members of the Standards and Conduct Committee are asked to consider whether further action should be taken to raise awareness of these issues amongst Leeds City Councillors.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No consultation has taken place on the contents of this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.3 Council policies and City Priorities

- 4.3.1 The Standards and Conduct Committee has a duty (on behalf of the Council) to promote and maintain high standards of conduct amongst Members of Leeds City Council. The Committee is therefore being asked to advise officers as to whether any further action is necessary to raise awareness of these issues, or prevent them from arising within Leeds City Council.

4.4 Resources and value for money

- 4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Under the Localism Act 2011 it is a criminal offence for a Councillor to fail to declare or register any employment carried on by them for profit or gain. It is also an offence under the Bribery Act 2010 for a Councillor to accept payments to induce favours or advantage to a particular party in the planning process, and for an individual or company to promise or provide such payments.

4.6 Risk Management

- 4.6.1 As stated above the Deputy Monitoring Officer has reviewed the Register of Interests held by Leeds City Council and has not identified any Members who provide planning consultancy services within the Leeds City Council area.

5 Recommendations

- 5.1 Members of the Standards and Conduct Committee are asked to note the information contained in this report, and to consider whether any further action is required.

6 Background documents¹

6.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.