

**Report of Chief Planning Officer**

**Report to Standards and Conduct Committee**

**Date: 11 January 2013**

**Subject: Officer declaration of interests**

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. This report responds to the request of the Standards and Conduct Committee to provide a report outlining the measures and procedures that are involved in the development management process to declare or make it known any beneficial interest in land or property and how potential conflicts of interest are avoided.
2. All Leeds City Council employees are required to declare any external interests which may conflict with their Council duties through the Council's Register of Interests procedure. Officers who are in "high risk posts" are automatically asked by the Business Support Centre (BSC) on an annual basis to make a Register of Interest declaration. Other officers, not deemed to be in high risk posts, are required to make a Register of Interest declaration if they think they have a conflicting interest.
3. In planning services, avoiding potential conflicts of interest is further managed through a procedure for the determination of planning applications and where planning officers inform their line manager in writing of any interest in an application they may be dealing with and the application is reallocated to another planning officer. This process has recently been tested by Internal Audit and their conclusions are awaited.
4. This report provides assurances to the robustness and transparency of the processes in place.

## **Recommendations**

### 5. Members are recommended to

- I. note the contents of this report and the robust assurances that it provides in terms of the measures used in mitigating the risk of officer conflict of interest and in declaring interests.

## **1 Purpose of this report**

- 1.1 At the meeting of the Standards and Conduct Committee on 30 October 2012, Members sought assurances from the Chief Planning Officer on the arrangements in place for officers involved in development management to declare or make known any beneficial interest in land or property where it is in the public interest to do so and how conflicts of interest are avoided in the process of determining planning applications.
- 1.2 This report sets out the framework for planning officers declaring or making known any beneficial interest they might have that may present a conflict of interest, secondly it describes the measures which are in place to mitigate potential conflicts of interest and finally, assurances are provided as to the robustness of the measures in place and where improvements are required.

## **2 Background information**

- 2.1 There is a clear framework for elected members to make a declaration of disclosable pecuniary interests, as members need to make a declaration of such interests on a register accessible to the public.
- 2.2 The Standards and Conduct Committee at its meeting in October expressed concerns about the robustness of processes for planning officers in demonstrating they are not involved in any decisions where they have a conflict of interest. The Committee requested that the Chief Planning Officer (CPO) provided details of the measures that are in place for planning officers to declare or make known any beneficial interest in land or property and the measures in place to mitigate the risk of officers making decisions on planning decisions where there is a conflict of interest.

## **3 Main issues**

### **3.1 Council Register of Interests**

- 3.1.1 The Register of Interests is a Council procedure where employees should declare outside interests where there may be, or could be perceived to be, a conflict of interest between their duties as an employee and their personal interests. The declaration covers:

- Membership of organisations the council needs to know about
- Associations with other businesses

- Beneficial interest in land or property,
- Certain personal relationships
- Financial interests in Council contracts and sponsorship

- 3.1.2 The City Development Directorate identifies employees in high risk posts within each service area. Posts are classified as “high risk” based on duties and responsibilities in terms of advising people, taking decisions, purchasing and grades (all JNC posts). Declaration of Interest forms are automatically sent out annually to employees who are deemed to be in high risk posts. To make a declaration on the Register of Interests, employees complete a register of interest form and return it to the Business Support Centre (BSC).
- 3.1.3 For planning services, there are additional officers in high risk posts who are identified as those planning officers, who under the Chief Planning Officer’s sub-delegation scheme are able to make the final decision and sign off applications, i.e. Principal Planners, graded PO4 and above, plus any other officers who have the duties outlined in paragraph 3.1.2 above.
- 3.1.4 Declaration of Interests forms part of the Employees Code of Conduct and failure to follow the Code could mean an employee is referred into formal policies and procedures, including the Disciplinary Policy Procedure.
- 3.1.5 The responsibility lies with the Director or Assistant Chief Executive to check the returns to ensure that the returns are credible, assess whether any declared interests may create a potential problem and if there is a potential conflict then to take steps to address it.

## 3.2 **Planning services internal processes for declaring an interest**

- 3.2.1 For officers who are not deemed to be in high risk posts, there is no necessity to complete a Register of Interest declaration. However, where any employee thinks there may be a perception of a conflict of interest, a precautionary approach should be taken and a declaration made.
- 3.2.2 Planning officers may face a conflict of interest on a day to day basis; this may occur when planning officers know the applicant or agent or live in the proximity of an applicant or application site, or have an interest in the application site. Usually when a conflict arises it is identified at an early stage of the project and the line manager is informed in writing and the case is immediately reallocated to another planning officer to reduce the chances of any possible later challenge to the decision making process. The planning officer with an identified risk takes no part in the decision making process.
- 3.2.3 Principal planners may also face a potential conflict when signing off applications and the established process is to inform the line manager in writing and have the case reallocated to another planning officer for final determination, again the planning officer with an identified risk takes no part in the decision making process.

### **3.3 Making representations**

3.3.1 Planning officers, like any other citizen can make representations on planning applications. In these circumstances, officers inform their line manager in writing that they have made a representation, they have no contact or involvement in relation to the application, so there is no accusation that they can seek improperly to influence a decision. All comments, in the same way as comments from other members of the public are available on Public Access.

### **3.4 Measures in place to mitigate conflicts of interest**

3.4.1 There are robust safeguards in place to mitigate the risk of potential conflict of interests which are described below.

3.4.2 There is a clear process for the determination of planning applications which is adhered to by all officers which ensures a consistent and accountable approach is taken. Officer reports address all the relevant planning policies and material planning considerations and take into account the views of consultees and representations made by the public. All information is considered and a recommendation is made.

3.4.3 No case officer can 'sign off' applications they have been working on and the Chief Planning Officer's sub-delegation scheme ensures that an appropriate level of scrutiny is brought to bear on each proposal. Decision making is undertaken at the appropriate level of seniority and experience before it is finally determined and reports are signed off by officers at Principal Planner level or above. In the case of smaller or policy compliant major applications, only senior planning officers graded at PO6 level and above have the delegated authority to make the final decision. This ensures there is the appropriate level of seniority brought to making decisions on significant and major applications. The largest and/or most contentious planning applications, usually major applications, are determined by members at the Plans Panels.

3.4.4 Where a conflict of interest arises, planning case officers inform their line manager in writing and the application is allocated to another planning officer. Principal Planners inform their line manager in writing of a potential conflict of interest in signing off an application and another Principal Planner will determine the application and sign it off. In both circumstances the officer with a declared interest takes no part in the decision making process. Additionally, wherever possible planning officers do not cover the same geographic area as where they live to avoid possible conflicts of interest.

3.4.5 Any planning officer who submits an application for their own property, or on behalf of a friend or family member should inform the CPO in writing. These officer applications are exceptions in the CPO sub-delegation agreement and can only be determined by the relevant Plans Panel.

- 3.4.6 In circumstances where an applicant has made a formal complaint about how an application has been dealt with in the past, any subsequent re-submission is dealt with by another officer, to ensure the application is being dealt with impartially
- 3.4.7 The basic principle that planning officers abide by is where there is a potential conflict of interest, officers do not get involved in any way either at the pre-application stage or formal application in order to avoid any perception of bringing undue influence.

## **4 Assurances**

### **4.1 Up to date and fit for purpose**

- 4.1.1 The process of notifying line managers and the Chief Planning Officer, as appropriate, in writing where there is a possible conflict of interest appears to have operated satisfactorily for a number of years. There are very few instances of conflict of interest due to the measures identified in section 3.4 above.

### **4.2 Compliance and Monitoring**

- 4.2.1 It is the responsibility of Directors and Assistant Chief Executives to check the register of interest returns and to acquaint themselves of any potential conflicts of interest and address as appropriate.
- 4.2.2 Officers who have identified an interest inform their line manager in writing of the situation. This should be in the form of an email, which is kept by the line manager. The procedure appears to be working satisfactorily and in the last five years there have not been any formal complaints of planning officer conflict of interest under the Council's complaint procedure.
- 4.2.3 A written note is often made on the planning application file that the case has been reallocated to another officer, although this is not always done consistently. There is room for improvement in strengthening this practice so it is more robust and transparent.
- 4.2.4 From time to time internal audit carry out a check of some applications to ensure the due processes are being followed. This has happened recently in relation to the issue of officer interests and internal audit have looked at a number of case files as a result. The results and conclusions of that audit are awaited.

### **4.3 Communication of the process**

- 4.3.1 BSC send out general reminders to prompt all employees to register potential conflicts of interest, even if they are not in posts deemed to be high risk.
- 4.3.2 Planning officers are aware of the need to make declarations of interest where potential conflicts arise however, it is some time since officers were reminded of the process and this will be addressed at a planning case workers meeting - a future meeting attended by all planning officers.

## **5 Corporate Considerations**

### **5.1 Consultation and Engagement**

5.1.1 Consultation has taken place with the planning services leadership team. Where practicable, comments have been incorporated. Following the views of the Standards and Conduct Committee the Trade Unions will be consulted.

### **5.2 Equality and Diversity / Cohesion and Integration**

5.2.1 There are no adverse equality implications arising from this report.

### **5.3 Council policies and City Priorities**

5.3.1 The importance of ensuring that the council's processes for decision making on planning applications are lawful, accountable, transparent and fair is crucial to ensuring public confidence in the system from all sectors of the community including residents and developers.

### **5.4 Resources and value for money**

5.4.1 There are no direct resource implications arising from this report.

### **5.5 Legal Implications, Access to Information and Call In**

5.5.1 Ensuring the system is fair, transparent and lawful can minimise the risk of potential legal challenges.

### **5.6 Risk Management**

5.6.1 There are a number of risks associated with the decision making process which are both financial and reputational. The measures outlined in the report seek to minimise the risk of challenge on the grounds of conflict of interest.

## **6 Conclusions**

6.1 Planning decisions made by the local planning authority can have far reaching implications in terms of the effect on the future quality of the environment and also the amenities of local residents of the city and in some cases financial gain. Decisions have the potential to effect the lives of many people. It is therefore important that the decision making process is robust.

6.2 The Council's Register of Interest process is part of the Employees Code of Conduct which applies to all staff and is an important tool to maintain confidence in the impartiality of public services. Officers in high risk posts are required to make an annual declaration, even if they have nothing to declare. All officers, irrespective of their grade must make a declaration if they have personal interests which could be perceived to be in conflict with their Council duties.

6.3 At a service level, planning officers understand the need to inform their line manager in writing when there are any potential conflicting interests. The basic principle is that where there is any perceived conflict, officers step aside and the work is reallocated to another colleague. This removes the risk of accusations of undue influence or impropriety. It has been some time since the procedure was communicated to planning officers and this will be addressed at a future planning case workers meeting.

## **7 Recommendations**

7.1 Members are recommended to

- I. note the contents of this report and the robust assurance that it provides in terms of the measures used in mitigating the risk of officer conflict of interest and in declaring interests

## **8 Background documents<sup>1</sup>**

8.1 None.

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<sup>1</sup> 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.