

Report of: Head of Internal Audit

Report to: Scrutiny Board

Date: 26th February 2013

Subject: Conflicts of Interest within the Planning Decision Making Process

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. Internal Audit has been asked to conduct an independent review of the controls in place to detect any potential conflicts of interest on the decisions made in respect of planning applications.
2. The review concluded that Leeds City Council Planning Services department has taken steps to identify and address any potential conflicts of interest arising throughout the development process and key controls are in place to mitigate the risk. Minor issues were identified and recommendations have been included in the Internal Audit report that has been issued to the Director of City Development, with the most significant being the inclusion of a declaration of no interest to be signed by the Case Officer and Principal Planning Officer responsible for signing off each decision.

Recommendations

3. Scrutiny board members are asked to note the contents of this report and take assurance that there are controls within the planning process to mitigate the risk of outside interests having influence on the decision making process.
4. Members are also requested to note the recommendation to include a signed declaration with each decision, and to provide any comments and suggestions they may have regarding the proposal.

1 Purpose of this report

- 1.1 This report intends to give high level assurance that key controls are in place within the planning application process to mitigate the risk of planning decisions being subject to a conflict of interest and inappropriate external influence.

2 Background information

- 2.1 Planning Services must operate a sound system of internal control in order to mitigate the risk of any outside interests impacting on the impartiality of the decision making process. Internal Audit has been asked to provide assurances that the controls operating within Planning Services can demonstrate that lessons have been learned from scandals such as that experienced by Doncaster Metropolitan Borough Council (DMBC) that raised significant questions around the integrity of Local Authority planning decisions. In March 2002 the former Chairman of Planning at DMBC, was sentenced to four years in prison for accepting bribes from a local property developer leading to the award of planning permission for a high profile development.
- 2.2 Internal Audit has undertaken a piece of work to review the measures and procedures in place within Planning Services to identify and avoid potential conflicts of interest within the planning application process. The detailed results of this review have been reported separately.
- 2.3 A sound system of internal control to prevent such occurrences would include:
- Transparency around each decision to ensure the basis is open to public scrutiny.
 - Segregation of duties in the approval process to ensure each decision is subject to review and authorisation at an appropriate level.
 - Robust procedures to identify and address any conflicting interests that may impact on the duties of planning officers in order to prevent instances in which officers are responsible for making decisions on applications in which they may have a personal interest in the outcome.
 - A clearly communicated anti-bribery stance embedded within the organisation including appropriate channels for whistle-blowing in the event of any suspected breaches.

3 Main issues

The expected controls at 2.3 have been listed as objectives below for ease of reference.

Objective 1 – There is transparency around each decision to ensure the basis is open to public scrutiny.

- 3.1 All planning applications are published on the public access area of the Council website. This ensures that key documentation surrounding each application is open to public scrutiny and there is transparency around the decision to award planning permission or otherwise.

Objective 2 - Segregation of duties in the approval process to ensure each decision is subject to review and authorisation at an appropriate level.

- 3.2 There is segregation of duties within the decision making approval process. No Case Officer can sign off an application that they have been working on. A comprehensive recommendation report is submitted by the Case Officer, giving due consideration to all relevant legislation and development policies. All decisions are subsequently reviewed and signed off by a Principal Planning Officer, as a minimum, in accordance with the Chief Planning Officer's sub-delegation scheme. This control ensures that all decisions are subject to an appropriate level of review and authorisation.
- 3.3 Where applications are deemed to be of wider significance to local communities and importance to Leeds, they are referred to the Plans Panel. The panel is made up of council members and also includes the council's legal representative, a number of planning officers and a highways officer. The general public are invited to make representations, and each application is discussed until a decision is reached. This will be set out in the official minutes of the panel meeting, which are subsequently published. Opening up decisions to this level of transparency and scrutiny helps to mitigate the risk of decisions being subject to the level of individual influence that was the root cause of the scandal outlined at 2.1.

Objective 3 - Robust procedures to identify and address any conflicting interests that may impact on the duties of planning officers in order to prevent instances in which officers are responsible for making decisions on applications in which they may have a personal interest in the outcome.

- 3.4 Officers have a duty to declare any interests they are aware of that could be perceived to potentially impact on the impartiality of the decision. This would be carried out via an email to the Line Manager outlining details of the interest and the case would then be allocated to an alternative officer. Whilst there is no formalised workflow that documents this procedure, Internal Audit was able to validate instances of this taking place, giving assurance that this control is understood by some officers and working in practice.
- 3.5 The audit report issued to the Director of City Development has recommended an additional control in this area that will further strengthen the arrangements. The recommendation is to incorporate a declaration of no interest, to be signed by the

Case Officer and Principal Planning Officer responsible for signing off each decision. This would act as a consistent reminder and deterrent to any officers that may have conflicting interests.

- 3.6 There are further procedures in place to identify potential conflicts of interest through the Council's Register of Interests procedure. This stipulates that any employee with any external interest which may conflict with their Council duties should complete a Declaration of Interest form. However all employees deemed to be 'high risk' should complete a register of interest form annually, regardless of whether or not they believe they have any potential conflicts of interest. This demonstrates a robust approach towards ensuring that officers in positions of influence are regularly reminded of their responsibility to declare any potential conflicting interests.
- 3.7 All Principal Planning Officers, and those with delegated decision making authority, have been identified as 'high risk' and are therefore subject to the annual declaration procedure. Internal Audit identified minor issues with the co-ordination of this process, and these have been addressed throughout the course of the review and subsequent report issued.

Objective 4 - A clearly communicated anti-bribery stance embedded within the organisation including appropriate channels for whistle-blowing in the event of any suspected breaches.

- 3.8 Leeds City Council operates an Anti-bribery Policy that sets out a zero tolerance approach to bribery and a commitment to the prevention, deterrence and detection of such offences. The document applies to all the Council's activities and covers the acceptance as well as the offering of inducements. The policy encourages openness and outlines an intention to support anyone that raises a genuine concern where bribery and corruption is concerned, with links to the Whistle-blowing Policy. This ensures that there are appropriately communicated means through which staff are able to raise any concerns around the integrity of the process.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 There are no specific implications with respect to this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no specific implications with respect to this report.

4.3 Council policies and City Priorities

- 4.3.1 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.

4.4 **Resources and value for money**

4.4.1 There are no specific implications with respect to this report.

4.5 **Legal Implications, Access to Information and Call In**

4.5.1 There are no specific implications with respect to this report.

4.6 **Risk Management**

5 There are a number of risks associated with the decision making process which are both financial and reputational.

6 **Conclusions**

6.1 There are a number of good controls within Leeds City Council's Planning Services that are operating to mitigate the risk of conflicts of interest impacting on the planning process. However, no system can eliminate the risk of collaboration occurring and individuals behaving in a manner that is contrary to the culture of the organisation.

6.2 The segregation of duties within the planning decision making process ensures that no decision can be subject to the level of corrupt individual influence that caused the scandal at DMBC. Significant developments would be referred to the relevant Plans Panel and subsequently any attempt to influence a development in the manner that occurred in Doncaster would be subject to scrutiny from a number of councillors, officers and external stakeholders prior to a decision being reached.

6.3 Controls could be strengthened by introducing a declaration of no interest, to be signed by the Case Officer and Principal Planning Officer responsible for signing off each decision. This would act as a consistent reminder and deterrent to any officers that may have conflicting interests.

7 **Recommendations**

7.1 Scrutiny board members are asked to note the contents of this report and take assurance that there are controls within the planning process to mitigate the risk of outside interests having influence on the decision making process .

7.2 Members are also requested to note the recommendation to include a signed declaration with each decision, and to provide any comments and suggestions they may have regarding the proposal.

8 **Background documents¹**

8.1 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.