

**TITLE OF REPORT: CONFLICTS OF INTEREST POLICY REVIEW**

REPORT OF THE DEPUTY MONITORING OFFICER

**1. SUMMARY**

1.1 A report to consider amendments to the Conflicts of Interest Policy.

**2. FORWARD PLAN**

2.1 This is not relevant to the Forward Plan.

**3. BACKGROUND**

3.1 The Council's Conflicts of Interest Policy was last updated in April 2007 and is therefore due for review. The current policy deals exclusively with conflicts of interest between an officer's duties and their (external) private interests, or the interests of their family or friends or close associates. An example of such a conflict might be a planning officer being asked to determine an application relating to a family member's property.

3.2 It has separately been identified that there are a number of situations where conflicts of interest may arise internally within the Council. Typically these will be where the Council is exercising more than one function. Examples include two of the Council's highest profile ongoing projects - the Hitchin Town Hall project where there are officers acting separately for the Council and officers acting for the Workman's Hall Trust, and the Churchgate development project where there is an officer project team acting for the Council and other officers who will act for the Local Planning Authority on any subsequent planning application. In both examples there are officers from within the same service area working on the different teams (legal in the case of the Town Hall, planning in the case of Churchgate). Other technical officers not directly involved in such projects may also be affected by the conflict of interest, for example if they are asked to provide advice to both functions.

3.3 These 'internal' conflicts of interest are currently not subject to any formal Council policy. Informal arrangements have been put in place on affected projects and are monitored by the officers conducting them. It should be stressed that no issues have been identified to date but it would seem prudent to formalise the Council's approach to these situations to ensure consistency of approach and to safeguard against potential issues such as a legal challenge to a decision making process, or negative public perception of the Council's work where it has more than one function. Additionally, as the Council's workforce becomes more streamlined over time in response to budgetary pressures, there is potential for a greater number of internal conflicts of interest as teams become smaller. It is therefore proposed that the existing Conflicts of Interest Policy be expanded to cover both internal and external conflicts of interest.

## **4. ISSUES**

- 4.1 The content of the existing Conflict of Interest Policy will be re-labelled to refer to External Conflicts of Interest. The new content will be labelled as Internal Conflicts of Interest. It is therefore proposed that the Policy be divided into two parts – Part A dealing with external conflicts and Part B dealing with internal conflicts. The purpose, scope and summary have been amended to reflect the addition of internal conflicts of interest to the Policy.

### **Part A - External Conflicts of Interest**

- 4.2 The existing policy has been reviewed and only minor amendments to wording to provide more clarity are suggested. We are not aware of any issues relating to the operation of the current policy.
- 4.3 The existing policy has appended to it 3 forms which are referred to within the policy. These are the Private Interests form (form 1), Conflicts of Interest form (form 2) and Interests in Contracts form (form 3). It is currently not proposed to amend these forms other than to clarify that they relate to external conflicts of interest. However, it has been discovered in the course of this Policy review, that a number of departments (for example Revenues and Internal Audit) use their own form to record potential conflicts of interest relevant to those departments. It is suggested that a review be carried out across the Council to identify where this is occurring, with a view to standardising approach where possible and appending all such forms to the Policy.

### **Part B – Internal Conflicts of Interest**

- 4.4 The approach suggested is to set out a broad framework to assist in the identification and management of internal conflicts of interest. It is recognised that the breadth of potential conflicts means that a prescriptive approach within the Policy is not appropriate.
- 4.5 The Policy puts an onus on the officer leading a project to seek guidance from the Monitoring Officer and Audit Manager as to how best to manage an internal conflict of interest. A number of example approaches are included within the Policy and the ethos will be to take as light a touch as is appropriate, balancing out risk with the ability of the Council officers to continue to function without unnecessary administrative burdens.
- 4.6 The more serious potential internal conflicts of interest may require very formal arrangements to be put in place to manage the flow of information. Such an approach is commonly known as a 'Chinese Wall' but for reasons of possible ethnic sensitivity are now referred to as Ethnic Walls or Information Barriers. JSCC is asked to consider whether it would be beneficial to prepare an Information Barrier Protocol to ensure that a consistent approach is adopted. Any Protocol will also need to take into account technical considerations (eg the IT systems) and practical considerations of a more mobile work force following the relocation of staff to the DCO and increased home-working as part of the Office Accommodation Project.
- 4.7 The Policy allows for monitoring of the procedures put into place on a project. It is anticipated that this would be an internal audit function.

- 4.8 As the Internal Conflicts of Interest section of the Policy is new it may be beneficial to have an early review of the Policy to ensure that it is functioning as intended. The views of JSCC are sought on this point.

## **5. LEGAL IMPLICATIONS**

- 5.1 There is no legal requirement to have a Conflicts of Interest Policy, but it is an important part of ensuring good governance.
- 5.2 The proposed policy will be considered by the Joint Staff Consultative Committee (as corporate interface with employees on major human resource issues) and the Audit and Risk Committee (who monitor the effective development and operation of risk management and corporate governance in the Council) before being presented to Cabinet who are tasked under the constitution with preparing and agreeing to implement policies and strategies other than those reserved to Council.

## **6. FINANCIAL AND RISK IMPLICATIONS**

- 6.1 This work will be met within existing resources. The management of external conflicts of interest is currently included within existing resources.

## **7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS**

- 7.1 The Human Resources team will support the application of this policy with advice to staff where required.
- 7.2 The Council incorporates the statutory equalities duties which apply to all its activities into policies and services as appropriate, as set out in the Council's Corporate Equality Strategy. We also recognise that in our society, groups and individuals continue to be unfairly discriminated against and we acknowledge our responsibilities to actively promote good community relations, equality of opportunity and combat discrimination in all its forms.
- 7.3 During the development and consideration of the protocols the impact of equality of access should be considered.

## **8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

- 8.1 None at present. It is intended to consult with the Union at an upcoming policy consultation meeting to be scheduled early in January 2011.

## **9. RECOMMENDATIONS**

- 9.1 That the JSCC consider and make any suggestions for amendment to the Council's Internal Conflicts of Interest Policy.

- 9.2 That the JSCC endorse the recommendation that the Monitoring Officer and Audit Manager review the use of different external conflicts of interest forms with the Council with a view to standardising the approach.
- 9.3 That JSCC endorse the recommendations of the development of an Information Barrier Protocol (see 4.6) and that there be an early review of the effectiveness of the Policy (see 4.8).

## **10. REASONS FOR RECOMMENDATIONS**

- 10.1 To ensure that the Council has effective means of tackling conflicts of interest.

## **11. ALTERNATIVE OPTIONS CONSIDERED**

- 11.1 Having the internal and external conflicts of interest as two separate policies was considered. This was discounted as it was felt that this approach may cause confusion for officers as to which policy was applicable.

## **12. APPENDICES**

- 12.1 Appendix A - The Conflicts of Interest Policy

## **13. CONTACT OFFICERS**

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