



Chester-le-Street
District Council

Report to: Council
Date of Meeting: 28 September 2006
Report From: Director of Community Services
Title of the Report: LSVT - Conflict of Interest
Agenda Item Number: **18**

1. Purpose of the Report

1.1 The purpose of this report is to secure the approval of Council for arrangements to avoid conflicts of interest during the LSVT (Large Scale Voluntary Transfer) process.

2. Consultation

2.1 The following Service areas and stakeholders have been consulted in connection with this report:

1. Head of Legal and Democratic Services

2.2 The Executive considered this matter at its August Meeting and gave its support.

2.3 The Standards Committee is considering the matter at its Meeting held immediately prior to this Meeting. The Head of Legal and Democratic Services will give an oral update to Members of the Council.

3. Corporate Plan and Priorities

3.1 This report supports the following priorities in the Corporate Plan:

Priority 3 Meeting the Decent Homes Standard

Objective: Apply for a place on the LSVT Programme in 2006/2007

4. Implications

4.1 Financial

4.1.1 There are no financial implications associated with this report.

4.2 Legal

4.2.1 The Council are required to put in place appropriate arrangements to avoid conflicts of interest arising during the LSVT process.

4.3 Personnel

4.3.1 There are no Personnel implications associated with this report.

4.4 Other Services

4.4.1 There are no "Other Services" implications associated with this report.

4.5 Diversity

4.5.1 There are no Diversity implications associated with this report.

4.6 Risk

4.6.1 The Council's reputation is likely to be affected if conflicts of interest are not appropriately managed.

4.6.2 If conflict of interest issues are not managed appropriately then referrals could be made to the Standards Board.

4.7 Crime and Disorder

4.7.1 There are no Crime and Disorder implications associated with this report.

4.8 Other Implications

4.8.1 There are no "Other" implications associated with this report.

5. Background, Position Statement and Option Appraisal

5.1 Background

5.1.1 The Department for Communities and Local Government has issued guidelines for those authorities wishing to make an application for stock transfer in 2006. These guidelines set out the need to make sure there is an appropriate degree of separation between a disposing authority and a prospective acquiring landlord, in order to avoid any conflicts of interest.

5.1.2 The guidelines accept that both officers and members can have dual roles, especially during the early part of the stock transfer process ie pre-ballot.

5.1.3 The guidelines state:

"An authority will want to ensure that officers making key recommendations in relation to the transfer are not solely those who would

transfer to the new landlord and that officers who will remain with the authority have a leading role at all times.”

5.1.4 Elected members should be aware of the over-riding need for Shadow Board members neither to profit from their position nor to put themselves in a position where their personal interest conflicts with their duties as an elected member.

5.1.5 The Council is bound by the mandatory provisions from the Local Authority (Model Code of Conduct) (England) Order 2001 (“the Model Code”), the relevant provisions of which are set out at Appendix I at the rear of this report.

5.1.6 The Guidelines from the Department for Communities and Local Government helpfully summarises the position as follows:

“[The Code requires] councillors to answer two questions; firstly, do they have an interest in a matter under consideration that would affect them, their relatives or friends to a greater extent than others in the authorities area? If that is the case the member should declare his or her personal interest. Secondly, is that interest one which a member of the public, knowing the relevant facts, would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest? If that is the case the member should consider their interest prejudicial and withdraw.”

5.1.7 Conflicts of interest may arise for both members and staff in advising, discussing, negotiating, promoting or opposing stock transfer. A draft protocol has been developed which should help with these issues. The protocol is attached at Appendix II at the rear of this report.

5.2 Position Statement

5.2.1 The Council has put the following arrangements in place to avoid conflicts of interest:

Pre-Ballot

1. All key decisions related to stock transfer will be taken by the Executive.
2. An LSVT Steering group will act as project sponsor for the LSVT process.
3. Council nominees on the Shadow Board will not include members of the Executive.
4. The Council nominees on the Shadow Board do not include members of the LSVT Steering Group.

5. The Chief Executive will lead for the Council on all LSVT matters.
6. The Director of Community Services will support the Shadow Board on all LSVT matters.
7. Guidelines will be issued to all members on LSVT and the Code of Conduct.
8. Guidelines will be issued to all staff on LSVT and the avoidance of conflicts of interest.
9. A conflict of interest protocol will be issued for elected members and staff.

Post-Ballot

1. Appointment of separate consultants to support the Council and Shadow Board.
2. Establish (through a Section 25 arrangement) funding to allow the Shadow Board to appoint the necessary staff and consultants to enable it to undertake post ballot tasks.

5.3 Option Appraisal

- 5.3.1 There are no options to appraise in relation to this matter.

6. Recommendations

- 6.1 It is recommended that the Council:

1. Note the contents of the report.
2. Approve the draft Protocol set out at Appendix II.
3. Request the Head of Legal & Democratic Services to prepare and issue appropriate guidance for both staff and elected members, following the consideration of this matter by the Standards Committee.

7. Background Papers/Documents Referred To

- 7.1 The following Background Papers have been used in the preparation of this report:

1. National Code of Conduct.
2. DCLG Guidance Stock Transfer 2006.

- 7.2 Copies of all Background Papers are available from the author of the report.

Author Name: Ian Broughton
Designation: Director of Community Services
Date of Report: 15 September 2006
Contact Details: Telephone Number: 0191 387 2410
E mail: ianbroughton@chester-le-street.gov.uk

APPENDIX 1 – MODEL CODE

- 1.1.1 The Model Code deals with the disclosure by Members of their “personal interests” and “prejudicial interests”.
- 1.1.2 A “personal interest” arises for a Member in the following situations:
- (i) in any matter which relates to an RSL (or similar body) of which the Member is either a Board Member, or holds some management position; or
 - (ii) where a decision is required on any matter which will promote (to a greater extent than the general public in the area) the well-being or financial position of:
 - (a) the RSL, or
 - (b) the Member personally; or
 - (c) any friend or relative (or their associated employment, business or financial interests)
- 1.1.3 A “prejudicial interest” arises where a “personal interest” could be regarded by the public as so significant that it is likely to prejudice that Member’s judgement of the public interest.
- 1.1.4 A “personal interest” must be disclosed by the Member:
- (i) at a Council meeting, either at the start or when the interest becomes apparent; or
 - (ii) in the written record of an executive decision made by the Member.
- 1.1.5 A Member with a “prejudicial interest” must, unless a dispensation has been obtained, withdraw from meetings where the matter is being considered, and must not exercise executive functions or improperly influence decisions in relation to the matter. However, a Member on any overview, scrutiny, joint or area committee who has a “prejudicial interest” may still participate in meetings of these committees, provided that no functions of the Council or the Cabinet are being exercised.

APPENDIX II – DRAFT PROTOCOL

CHESTER-LE-STREET DISTRICT COUNCIL

CODE OF CONDUCT – PROTOCOL

1. The purpose of this protocol is to guide Members and employees to avoid any conflicts of interest, both actual and perceived, before, during and after the ballot of tenants in connection with the possible establishment of a Registered Social Landlord (RSL).
2. The Guidance in this protocol does not take the place of the Council's Code of Conduct or conditions of employment of Members and employees. It is intended as supplementary guidance to clarify roles and responsibilities. It recognises Members' corporate responsibilities and that they represent the interests of their constituents. The Council believes, therefore, that Members should be free to discuss the issue with their constituents but that they should only assist the stock transfer process in a balanced way based on agreed accurate information.
3. The protocol should help to ensure that at all stages before, during or after the tenants and Council have determined a way forward on the possible stock transfer, Members and staff will be seen to have maintained high standards of integrity and personal conduct.
4. In order to achieve and maintain standards:-
 - 4.1 The Council will:-
 - 4.1.1 Establish a Shadow Board for the RSL made up of Council, Tenant and Independent representatives.
 - 4.1.2 Only appoint the Councillor nominees on the Shadow Board from amongst those Members who are not members of the Executive and LSVT Steering Group.
 - 4.1.3 Appoint or continue the appointment of an independent consultant to act as tenants' adviser who shall be independent from, and not seen as representing, the views of the Council, the proposed RSL or tenant groups.
 - 4.1.4 Ensure that timely and complete information is supplied to tenants to enable them to be best informed prior to the formal ballot.

- 4.1.5 Restrict circulation of documents containing confidential information to only those Members who have a "need to know" for the performance of their duties on behalf of the Council. Any determination as to what information is to be classified as confidential and which Members are eligible to receive such information shall be made by the Chief Executive.
- 4.1.6 Ensure that appropriate stock transfer decisions are delegated to the Chief Executive where a potential conflict of interest exists or might arise for a Member or employee.

4.2 Members will:-

- 4.2.1 Ensure that confidential information obtained by them, whilst acting on behalf of the Council, is not disclosed to Members, officers or other persons representing the Shadow Board of the RSL or to tenants.
- 4.2.2 Not act in an advisory capacity, either formally or informally, to both the Council and the Shadow Board.
- 4.2.3 Not undertake any formal role on behalf of tenants in connection with the possible establishment of the RSL.
- 4.2.4 Not accept any paid office with the Shadow Board.
- 4.2.5 Comply with the Council's Code of Conduct.
- 4.2.6 Discuss stock transfer issues with constituents in a balanced way based on agreed accurate information.

4.3 Employees will:-

- 4.3.1 Ensure that confidential information obtained by them, whilst acting on behalf of the Council, is not disclosed to Members, other employees or persons representing the Shadow Board of the RSL or to tenants.
- 4.3.2 Not, without the prior approval of their Director, promote the retention or disposal of the housing stock prior to any formal recommendation being made by the Council and approved by the DCLG.
- 4.3.3 Not, without the express consent of their Director, act in a formal or informal advisory capacity to both the Council and the Shadow Board.

- 4.3.4 Not undertake any formal role on behalf of tenants in connection with the possible transfer of the stock other than such duties as may be required under their Terms and Conditions of Employment by the Council.
- 4.3.5 Not accept, except for any secondments of Officers approved by the Council, any paid office or other appointment with the Shadow Board.
- 4.3.6 Comply with statutory rules and regulations relating to the Council's Code of Conduct and their Contracts and Terms and Conditions of Employment.