

# Councillor Conduct Tribunal decision

14 August 2019

## Key issue - conflict of interest

### Perceived conflict of interest arising out of a relationship with a consultant on a development application

At an ordinary council meeting, a report regarding a development application for making a material change of use (Code assessment) for multiple dwellings (32 dwellings) was considered. H Lawyers were listed in the consultancy team by the Applicant.

Councillor T had a relationship with H Lawyers as follows:

- Councillor T first retained H Lawyers as a legal representative in 2002.
- Over a 17-year period Councillor T, and to a lesser extent companies of which he was a Director or shareholder, had engaged H Lawyers on 46 matters.
- In these matters a number of legal practitioners from within the firm had represented Councillor T.
- Councillor T had paid legal fees and disbursements to H lawyers in excess of \$750,000.
- H Lawyers were retained by Councillor T on two current matters.
- H Lawyers had represented Councillor T on a range of property, leasing and other general litigation matters but had not acted for him on property development or town planning issues.

Legal representatives for Councillor T argued that his relationship with H Lawyers was merely as a consumer of legal services and was too remote to represent a conflict of interest.

The Office of the Independent Assessor argued that the existence of close associations between elected representatives and the private sector, particularly in the context of property development, involved risks of favouritism and an obligation of reciprocity between parties involved, or perceptions of the same.

The Councillor Conduct Tribunal accepted that where a conflict of interest is based on a relationship or association, the question for the Tribunal is whether having regard to the nature, extent, significance, duration, frequency, proximity and intensity of the relationship/association; a conflict of interest arises.

The Tribunal acknowledged that there was no evidence that Councillor T had obtained a benefit or might in the future obtain a benefit through approving the development under consideration.

The Tribunal concluded that it might be perceived by the reasonable and fair-minded observer that Councillor T had a perceived conflict of interest due to his long and extensive relationship with H lawyers.

