

Lifting the lid on Town Halls



Investigating the contracts and deals

Richard W Orange, Orchard News Bureau Ltd



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Newark Advertiser: 'Licence to bill'

• by Will Harrison, 6th August 2004

- **A councillor has charged taxpayers for late night calls to Russia.**
- Colin Bromfield, one of Newark's county councillors, claimed £38,000 in allowances and expenses last year.
- This week reporters spent two days at County Hall, inspecting the original accounts and receipts relating to other claims made by Mr Bromfield (62).
- During the last financial year, he made three foreign trips including one to the Russian city of Chelyabinsk in August.
- The council paid £682 for his air ticket, £190 for a civic car, £621 for accommodation, almost £250 for subsistence and £432 for a translator.



Newark Advertiser: 'Licence to bill'

- The interpreter was a woman called Irina Postnikova. This week the Advertiser examined Mr Bromfield's claims for calls made on the mobile phone supplied to him by the council. His bill showed after he returned from Russia, he called the same number on many occasions, including six times on Christmas Day and Boxing Day.
- County taxpayers met the bill, because Mr Bromfield reported these calls were made on council business. These included a five minute call after midnight on Christmas Day, when it was 5am in Chelyabinsk. He made 24 calls to the same number, costing £130.
- On one day in February, he claimed £56.67 for travel and subsistence at County Hall, for consultation with an official. However, he submitted another claim indicating that he was in Newcastle for some of the time. He told the Advertiser: "I was in Newcastle. It was a long and arduous trip."



ONB: '£14,000 for email clinics'

• by Richard Orange, 25th August 2006

- **A consultancy has been paid more than £14,000 of taxpayers' cash, to give a handful of council staff 'clinics' on how to use e-mail.**
- Lincolnshire County Council handed the money over to a firm, so that a select group of local government 'delegates' could "get the best results" from their email.
- ONB has discovered the company was formed one week BEFORE it landed the deal, and was dissolved one week AFTER it ended.
- The contract is one of several in the last 15 months to have breached the authority's own rules and regulations governing the control and distribution of public money.



ONB: '£14,000 for email clinics'

- The consultancy charged £1,500 to run two introductory seminars for 25 staff in mid-January 2006, and billed the council £67 for overnight accommodation. A further 11 workshop sessions – costing £8,250 before VAT – were held on successive dates in late March.
- The firm charged the council £800 to hire a computer projector for eight days, which is within the price range of a brand new model (which the council could have bought and kept for its own purposes).
- ONB has established the deal breached rules and regulations governing consultancy services, because the council failed to canvass the consultancy market for rival bids, before awarding the contract.
- The council has now admitted officials also failed to keep full and proper written records relating to the decision to award the contract, as required under anti-corruption rules.



ONB: 'You're hired...by email'

• by Richard Orange, 24th August 2006

- **Contestants in the recent television show 'The Apprentice' had to fight hard for a six-figure salary from entrepreneur Sir Alan Sugar.**
- But it was a different process at Lincolnshire County Council, when a management consultant hired a PR 'spin doctor' on a lucrative package, in the course of a friendly email exchange.
- ONB has obtained the emails, which include a generous offer of employment for an initial three month period worth £10,200 plus VAT and travel expenses.
- That arrangement was later extended and enhanced to between two and three days a week, at £850 per day plus VAT and expenses.
- Strangely, no contract appeared for the first 11 months.

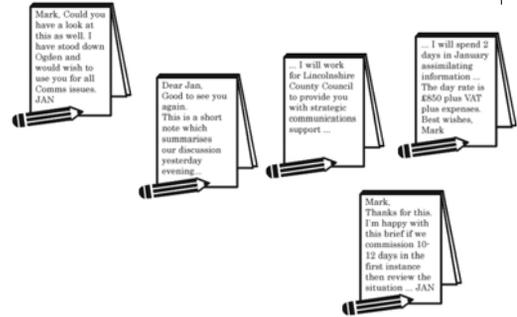


ONB: 'You're hired...by email'

- Marketing guru Mark Fletcher-Brown owes his lucrative position to Yorkshire management consultant Jan Didrichsen, who was brought in as a 'stop-gap' and part-time CEO following the departure of whistleblower chief executive David Bowles in 2004.
- The acting head of paid service emailed the PR adviser to tell him that he wanted him in place as an adviser as soon as possible. Since then, he has gone on to earn in the region of £200,000 from County Hall.
- Financial regulations state no council contracts worth more than £10,000 are allowed unless quotes are obtained from other firms. But the anti-corruption rules were never followed in this case.
- Council leader Martin Hill said Mr Fletcher Brown had been "worth his weight in gold". He was appointed because the council had received a critical Audit Commission report, and it was important to "act quickly" to deal with any damage to the council's reputation.



ONB: 'You're hired...by email'



Statutory authorities

- **Audit Commission Act 1998**
 - s.14 – right to inspect statements of accounts (*by elector*).
 - s.15 – right to inspect and make copies of all contracts, books, deeds, vouchers, receipts, bills and invoices under audit (*by persons interested*)
 - s.15 – details of salaries, benefits and pension payments to current/former staff are exempt.
 - s.16 – right to object to the accounts (*by elector/agent*).
- **Accounts and Audit Regulations 2003**
 - s.14 – inspection period set at 20 working days.
 - s.15 – prohibits alterations to accounts during 20-day period.
 - s.16 – publicity of arrangements for public to view accounts.
 - s.22 – breach of regulations an offence.



Statutory authorities

- **Local Authorities (Members Allowances) Regulations 2003**
 - s.15 – requirement for councils to maintain and make available a public register detailing all payments/expenses to councillors.
- **Local Government Act 2000**
 - s.81 – requirement for councils to maintain and make available a public register detailing personal and financial interests of all elected members and co-opted members.
- **Local Authorities (Model Code of Conduct) Orders 2001**
 - pt.3, s.13 – requirement for councillors to disclose employment, business, property, investment, contractual, political sponsorship, charitable, trade union, and professional interests.



Recent legal cases

- **R. v Bristol City Council ex-p. HTV (2004)**
 - Elias J: Councils can not refuse to disclose information because they disapprove of the use to which the information may be put (eg: a TV documentary).
- **R. v Lincolnshire County Council ex-p. R Orange (2005)**
 - Leveson J: Councils can not use the Data Protection Act to withhold details of the annual accounts from public inspection.
- **Oliver v Northampton Borough Council (1986)**
 - Mann J: A council can not discharge its obligations by providing a summary of the accounts to an elector, in response to a request to view the detailed books.



The legislative context

- **Right of 'interested persons' to inspect and make copies of the accounts is long-standing**
 - Provisions date back to Public Health Act 1848.
 - Encompasses voters, taxpayers and local companies paying uniform/non-domestic business rates.
 - Electors may appoint agents (*R v Bedwelty UDC 1933*).
- **Right to inspect the accounts is self-standing but nevertheless integral to the audit process**
 - The right to inspect/copy accounts is not conditional on a person raising a matter with the auditor – because it is in the public interest that any 'interested person' is free to inspect the accounts.
 - In other words, our enquiries are part of the annual audit.



The ECHR context

- **Human Rights Act 1998 and ECHR**
 - s.3(a) obliges public authorities to act in accordance with ECHR rights.
 - Article 8 enshrines a right to privacy, subject to lawful intervention.
 - Local authorities may claim a 'duty' to withhold accounts from inspection on the (untested) grounds that disclosure could breach article 8.
 - But a taxpayer's statutory right to inspect the accounts (subject to the exemption regarding members of staff) is sufficient to qualify as a lawful intervention.



The ECHR context

- **Human Rights Act 1998 and ECHR**
 - No court has declared s.15 of the Audit Commission Act to be incompatible or in conflict with the ECHR.
 - s.3(b) obliges public authorities to continue to act in accordance with primary legislation – even if the courts have declared a current statutory provision to be incompatible with ECHR rights.
 - It is for Parliament to revise statute.



Administrative resources

- **The Council's Constitution**
 - Details financial regulations regarding procurement policies, procedures and record-keeping. Available online.
- **Statements of Accounts**
 - Schedules of expenditure and income (with explanatory notes) divided along departmental and project lines. Generally available online.
- **Credit of reserve notes**
 - Details outstanding debts and payments for works carried out during the financial year in question, which will be included in the subsequent financial year's accounts. Available from council treasurer/chief accountant.



Practicalities and hurdles

- **Availability of documents**
 - Contracts, bills, invoices, receipts etc. are usually stored at various locations, such as schools (invariably closed during the statutory public inspection periods). Many councils 'outsource' financial accounting services to private sector companies, and records may be processed and stored 100s of miles away.
- **Notification of inspection period**
 - All authorities must publish a Public Notice in an edition of a paid-for newspaper circulating in the locality, detailing inspection dates, contacts and venues. Dates change every year. Very few authorities publish the details on the internet.
 - Telephone enquiries for details can be problematic without the name of the responsible official.



Practicalities and hurdles

- **Familiarity with procedures**
 - Local council and police authority budgets/accounts are divided and then sub-coded along departmental lines – eg: Corporate Services, Adult Services, Recreation and Leisure, Legal Services, Business Services, Planning, Chairman's and Members Services. Police authority budgets and accounts are also divided along operational and non-operational lines.
- **Limitations of data in spreadsheets**
 - Spreadsheets will give a partial picture about items of interest – eg: Mayoral entertainments budget. But these will record sums that coincide with coding systems in use. The council will not record costs such as 'officer/member time spent on planning the new leisure centre'. Spreadsheets are useful, but the invoices, bills, receipts and contracts tell the 'real' story.



PA News: 'Met hands over Informer bill'

- Press Gazette, 17th September 2007
- **PA crime correspondent Chris Greenwood says the Audit Commission Act allowed him to make public for the first time the amount handed to informants by the Met Police.**
- His dogged determination was rewarded with the information that the Met had splashed out more than £2.2m for information about criminals operating in the capital and beyond.
- The Met and police forces throughout the UK had refused to reveal how much they spent on informants when the BBC filed a Freedom of Information Act request.
- Greenwood decided to try again after reading an article ... about the effectiveness of section 15 of the Audit Commission Act 1998.



PA News: 'Met hands over informer bill'



- Despite the legislation, gathering the information was not straightforward. Greenwood exchanged several emails and made at least a dozen calls to four different people to negotiate access to the papers. Various hurdles were put in front of him.
- He received a "barrage of legal jargon" explaining that his request could be blocked under various laws including the Human Rights Act and even the Official Secrets Act if he chose to inspect sensitive documents.
- "I would say this was a smokescreen to try to scare me off," he said.
- On the last day of the 20 day window, Greenwood was finally given access to the Met files.
- "Spotting the figure buried in the middle of the files was a very satisfying moment," he said.



Smokescreens and remedies



- **"All requests must be put in writing"**
 - Local councils and police authorities may tell electors and taxpayers to conduct all enquiries by email or post (enabling officials to filter through the paperwork and send you records they think you should see). But that is not what the law says.
- **"You must make an appointment"**
 - You have a right to view and copy the accounts in person. The Public Notice may claim that people must make appointments before visiting the Town Hall, but that is not what the law says.
- **"We need to get permission to show you that"**
 - Local authorities may claim they must check with companies and individuals named in invoices and contracts, before allowing access. But that is not what the law says.



Smokescreens and remedies



- **"You are only allowed to see the figures"**
 - Local authorities may tell electors and taxpayers they are entitled to view the statements of accounts and nothing more. But that is not what the law says.
- **"You must tell us why you are asking for that information"**
 - You have a right to view and copy the accounts. Councils and police authorities may claim a right to question your motives or interest in the files, but it is none of their business and they are not allowed to stop you viewing public accounts.
- **"We can't show you that, because it is about members of staff"**
 - Local authorities may claim that any financial document identifying a current or a former member of staff is exempt from viewing. But that is not what the law says.



What you can do about it



- **Preliminary research**
 - Find out when the annual inspection is to take place and have a copy of the Public Notice sent to you.
 - Request spreadsheet data in advance of the 20-day period.
- **During the inspection period**
 - Insist on direct access to all relevant contracts, invoices, receipts etc. - by departmental budget code and description.
- **Do not tolerate any obfuscation or obstruction**
 - Do not let the authority push your inspection visit to the end of the 20 days. You may want to make additional requests.
 - Keep written notes of all communications with officials.
 - Remind councils that the courts take a dim view of any interference with a person's legal right to view the accounts.



Over to you...



- **Frame a request which will enable you to investigate:**
 - The leader/elected mayor.
 - Freemasonry links at the authority.
 - 'Tom and Jerry Builders Ltd'
 - Links between the authority and the local soccer club.
- **Some of the entries in the documents have been censored**
 - What should you do?
- **The authority says it would be 'more appropriate' to treat your enquiry as an 'FOI request' - and seeks your agreement**
 - What should you do?

