

Briefing Note – Members Acting for Developers

Background

There have been a series of articles published in the Telegraph by Campaign to Protect Rural England in relation to the alleged practice of councillors acting for developers for a fee, to which the Local Government Minister Brandon Lewis and the Secretary of State for Communities and Local Government have responded.

As a result of this publicity this briefing note has been produced with the intention to provide guidance to members acting for developers.

Localism Act 2011

Members are reminded that it is unacceptable to be receiving any form of payment to lobby their own Council. Paragraph 5 of the Code of Conduct states that you must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.

Under paragraph 11 of the Code of Conduct Members must register their discloseable pecuniary interests, which includes their employment and any trade for profit or gain. Failure without reasonable excuse to do so is a criminal offence.

Bribery Act 2010

Depending on the circumstances, the receipt of payments to lobby could constitute a criminal offence under the Bribery Act.

The Bribery Act also covers those who promise or provide such payments, be they consultancy firms or individuals. Those who offer financial advantage to any councillor to attempt to influence the planning process in their local authority are themselves potentially committing a criminal offence. Should members find themselves in this position they should immediately contact the Monitoring Officer.

Misconduct in Public Office

It seems likely that councillors acting for a fee for developers will also be committing the common law offence of misconduct in public office.

The offence is committed when a public officer acting as such wilfully neglects to perform his duty and/or wilfully misconducts himself to such a degree as to amount to an abuse of the public's trust in the office holder, without reasonable excuse or justification. The offence carries a maximum sentence of life imprisonment.

If you require any further advice in relation to this matter please contact the Monitoring Officer.