



Department for
Communities and
Local Government

The Rt Hon Hilary Benn MP
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Appendix 1

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Dear Hilary

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Councillors and lobbying

Thank you for your letter of 11 March, further to the reports in the *Daily Telegraph* on planning and councillors' interests.

I entirely share your concerns and sentiments. I do not believe such conduct is widespread, although I suspect that any (extremely rare) practices in this regard date back to the previous standards regime.

Localism Act 2011

It is unacceptable for councillors to be receiving any form of payment to lobby their own council. Such behaviour is a clear breach of the Nolan Principles (embedded in the Localism Act), and we would expect such conflicts of interest to be prohibited in councils' own local codes of conduct, which the statute requires must be consistent with those principles.

Under the Act, councillors must also register their employment and any trade for profit or gain, and failure to do so is a criminal offence. It is a requirement in law for such registers to be online by the local authority. I have asked my officials to remind councils of this requirement.

My department's illustrative Code of Conduct¹ clearly states:

"You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate."

"You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties."

"You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest"

¹ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

Bribery Act 2010

In addition, depending on the circumstances, the receipt of such payments to lobby could also constitute a criminal offence under the Bribery Act (which incorporates the previous Prevention of Corruption Acts).

Planning is a quasi-judicial and an administrative process. Payments to a councillor to misuse or abuse their privileged position in their local authority to induce favours or advantage to one party in that council's planning process could entail 'improper performance', by virtue of being a breach of the expectation of good faith by holders of public office and a breach of their position of trust.²

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. It is no different than offering a bribe to a police officer – a practice that is both unacceptable and illegal.

Role of political parties

More broadly, separate to the law of the land, there is also a role for local and national political parties to promote high standards in public life, especially in relation to day to day conduct on avoiding conflicts of interest. I understand the Conservative Party has already taken firm action to suspend the party whip from one councillor. I would hope that political parties of other colours also take any necessary action in this regard, which would send an unambiguous signal on the expectation of high standards, especially in the planning process.

Councillors as local champions

Notwithstanding my comments above, I do believe it is important to have a sense of proportion in relation to recent reports. Instances of corruption in local government are, and remain, extremely rare. Whilst recognising the need for due process and a fair hearing, we must also protect the right of freedom of speech to allow councillors to champion their local residents: the narrow interpretation of pre-determination rules has previously been corrosive to local democracy.

Councillors are not full-time politicians: they can and should have outside jobs and interests. I believe the sunlight of transparency will be the best disinfectant.

Given your letter was issued to the press and given the broader public interest, I am placing this letter in the Library of the House of Commons.

Yours ever
Eric

THE RT HON ERIC PICKLES MP

² http://www.cps.gov.uk/legal/a_to_c/bribery_act_2010/#a05