

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



**TO ALL MEMBERS OF THE
GENERAL PURPOSES COMMITTEE**

03 April 2012

Dear Councillor

GENERAL PURPOSES COMMITTEE – WEDNESDAY, 11 APRIL 2012

Further to the agenda and papers for the above meeting, previously circulated, please find attached the following report which was marked to follow:-

7. Localism Act 2011 - Standards

To consider proposals for the adoption of a new Code of Conduct and arrangements for ethical standards complaints to take effect from 1 July 2012.

Should you have any queries regarding the above please contact me.

Yours sincerely

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Committee Services Officer

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Meeting: General Purposes Committee
Date: 11 April 2012
Subject: Localism Act 2011 - Standards
Report of: Councillor Mrs Jane Lawrence
Summary: The report proposes the adoption of a Code of Conduct to apply to Members of the Council from 1 July 2012 and arrangements for handling complaints as required by Sections 27 and 28 of the Localism Act 2011.

Advising Officer: John Atkinson, Head of Legal and Member Services
Contact Officer: Leslie Manning, Committee Services Officer
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Financial:

1. The proposals in this report have no immediate financial implications. However, the arrangements adopted by the Council may have financial implications in due course in respect of the costs of handling complaints. This is especially the case given that the Council is responsible for handling any complaints that may be made against parish councillors.

Legal:

2. The proposals contained in this report comply with the requirements in relation to Standards contained in the Localism Act 2011.

Risk Management:

3. It is important that the Council adopts a Code of Conduct and that Members comply with the provisions of the Code. Failure to do so would result in considerable reputational risk for the Council.
4. The main operational risks concern the responsibility for supervising the arrangements for ethical standards adopted by parish councils. This is likely to impose a considerable burden on the Council's Monitoring Officer and staff in the Legal and Democratic Services Team.

Staffing (including Trades Unions):

5. Not Applicable.

Equalities/Human Rights:

6. The proposed Code of Conduct recognises the Council's responsibilities in relation to Equalities and Human Rights.

Public Health

7. Not applicable

Community Safety:

8. Not Applicable.

Sustainability:

9. Not Applicable.

Procurement:

10. Not applicable.

RECOMMENDATIONS:

The Committee is asked to make the following recommendations to Council:

1. that the Code of Conduct set out in Appendix A to the report be adopted;
2. that the Monitoring Officer contact clerks to town and parish councils in Central Bedfordshire to invite them to consider recommending the draft Code of Conduct for adoption by their Councils;
3. that the General Purposes Committee be authorised to take any decisions necessary to implement the provisions contained in Chapter 7 of the Localism Act 2011, so that these arrangements are in place when the relevant provisions take effect on 1 July 2012.

The Localism Act 2011

11. The Council has in place a Code of Conduct and existing arrangements for dealing with complaints that Members of the Council have failed to comply with the Code. The statutory framework governing these arrangements has been repealed by the Localism Act 2011.
12. The Localism Act 2011 contains new arrangements governing standards in local authorities. The arrangements will apply to Central Bedfordshire Council and also to all town and parish councils within Central Bedfordshire. They will come into force on 1 July 2012.
13. The Act imposes a duty on the Council to promote and maintain high standards of conduct by Members and co-opted Members of the authority. To this end, the Council is required to adopt a Code of Conduct, which is consistent with the Nolan principles of standards in public life.

14. The Council is also required to have in place arrangements for the investigation and determination of complaints. To assist in this process the Council must appoint at least one independent person whose views must be sought before any decisions are made about complaints.
15. The Council's Monitoring Officer must establish and maintain a register of interests of Members and co-opted Members of the authority and Members must notify the Monitoring Officer of any disclosable pecuniary interests which they have at the time of notification. Disclosable pecuniary interests will be prescribed in regulations to be made by the Secretary of State. The Act provides that Members will commit a criminal offence if they fail to comply with their obligations in respect of disclosable pecuniary interests.
16. Following the enactment of the Localism Act 2011 the Leader appointed a Task Force drawn from members of the General Purposes Committee to consider how the Council should prepare for the implementation of these provisions. In view of the application of the provisions to town and parish councils, Louise Ashmore of the Bedfordshire Association of Town and Parish Councils was co-opted to the Task Force.

Code of Conduct

17. Discussions have taken place within the LGA about the publication of a model Code of Conduct, but this has yet to appear and the Task Force concluded that it would be preferable for Central Bedfordshire to adopt a local Code of Conduct. Accordingly, the Head of Legal and Member Services was asked to draft a Code. This has been reviewed by the Standards Committee and the Ethical Standards Task Force and a copy of the draft Code of Conduct is attached as Appendix A.

Arrangements for Handling Complaints

18. The Task Force has also given preliminary consideration to the arrangements for consideration of complaints. Further work on these arrangements will be needed but it is proposed that they will include the following elements:
 - (a) Initial assessment by the Monitoring Officer in consultation with an independent person and for complaints to be resolved informally where the Monitoring Officer considers that this would be appropriate.
 - (b) Appointment of Standards Sub-Committees/Panels to determine whether complaints should be investigated, to undertake hearings and determine any sanctions with advice from an independent person.
 - (c) The right of either the complainant or the Member against whom the complaint has been made to ask for the decision to be reviewed if they are dissatisfied with the outcome.
19. The Localism Act contains no formal sanctions that may be imposed on Members who breach the Code of Conduct. Sanctions that could be imposed include:
 - (a) Censure of the Member;

- (b) The submission of a report to Council for information;
- (c) Arranging training for the Member concerned;
- (d) Removal of the Member by the Group Leader from any or all committees or sub-committees;
- (e) Withdrawing facilities or excluding the Member from the Council's offices or premises with the exception rooms used for Council and committee meetings.

Register of Interests

- 20. No action has yet been taken on this element pending the publication of regulations prescribing what will constitute disclosable pecuniary interests.

Town and Parish Councils

- 21. Town and parish councils are required to adopt a Code of Conduct. It is anticipated that most town and parish councils will adopt Central Bedfordshire's Code of Conduct suitably modified. Any complaints of breaches of a town or parish council's Code must be investigated and determined by Central Bedfordshire Council.
- 22. The Monitoring Officer for Central Bedfordshire Council must establish and maintain a register of interests for all town and parish councils in Central Bedfordshire and must ensure that the register is published on the Council's website.

The Standards Committee

- 23. The existing Standards Committee will remain responsible for handling complaints until 30 June 2012. At that time, the Standards Committee as currently constituted will need to be replaced. However, there is no requirement in the Localism Act 2011 for the Council to appoint a Standards Committee.
- 24. The Constitution Advisory Group has recently considered whether any changes should be made to the Council's Committee Structure in respect of corporate governance including ethical standards. It is proposed that the General Purposes Committee should exercise the Council's responsibility for ethical standards, including exercising the Council's functions under Chapter 7 of the Localism Act 2011.

Appointment of Independent Persons

- 25. The drafting of the Localism Act 2011 means that existing independent members of this Council's Standards Committee are ineligible to serve as independent persons in the new arrangements. It is possible that the government will relax this restriction for a transitional period but the Council will need to put in place arrangements to appoint independent persons before the relevant provisions come into force on 1 July 2012.

Conclusion and Next Steps

26. The Committee is asked to consider the proposals set out in this report and agree the recommendations proposed at the beginning of the report in order that the Council is ready to implement the provisions contained in Chapter 7 of the Localism Act 2011 when these come into force on 1 July 2012.

Appendices:

Appendix A – Draft Code of Conduct

Background Papers: (open to public inspection)

None

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CENTRAL BEDFORDSHIRE COUNCIL

CODE OF CONDUCT

1.0 Introduction

- 1.1 This Code of Conduct (“the Code”) has been adopted by the Council as required by Section 27 of the Localism Act 2011 (“the Act”).
- 1.2 The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Members and co-opted Members of the Council (“Members”) and the Code sets out the standards that the Council expects Members to observe.
- 1.3 The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.
- 1.4 The Code is consistent with the following principles (the “Nolan” principles of standards in public life):

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

2.0 Who does the Code apply to?

- 2.1 The Code applies to all Members of the Council and to all co-opted Members of any committee, sub-committee or joint committee of the Council.

3.0 When does the Code apply?

- 3.1 The Code applies whenever a person is acting in his/her official capacity as a Member of the Council or co-opted Member in the conduct of the Council’s business or acting as a representative of the Council.

4.0 What standards of Conduct are Members expected to observe?

Selflessness:

- 4.1 Members must always act in the public interest.
- 4.2 Members must never use their position as a member of the Council improperly to secure for themselves or any other person, an advantage or disadvantage.
- 4.3 Members must not use the Council’s resources improperly for personal or party political purposes.

Integrity

- 4.4 Members must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 4.5 Members must not disclose information given to them in confidence.

Objectivity

- 4.6 When making decisions on behalf of the Council, including awarding contracts or making appointments, Members must do so on merit.
- 4.7 Members must have regard to any relevant advice provided to them by the Council's officers and, in particular, the Head of Paid Service, Chief Finance Officer and Monitoring Officer, where such advice is provided pursuant to their statutory duties.

Comment [A1]: This paragraph will need to be revised in the case of Parish & Town Councils.

Accountability

- 4.8 Members must act in accordance with their legal obligations, including the following Acts of Parliament that confer special obligations on elected councillors:

- Local Government Act 1972
- Employment Rights Act 1996
- Data Protection Act 1998
- Freedom of Information Act 2000
- Bribery Act 2010
- Equality Act 2010
- Localism Act 2011

- 4.9 Members must act in accordance with the Council's policies and reasonable requirements, including any protocols and codes of practice that may apply. (e.g. in respect of Member/Officer Relations, ITC, Member Allowances etc).

Openness

- 4.10 Members must give reasons for any decisions taken on behalf of the Council in accordance with any statutory requirements and the Council's Constitution.
- 4.11 Members must not prevent another person from gaining access to information to which that person is entitled by law.

Honesty

- 4.12 Members must declare any disclosable (pecuniary and non-pecuniary) interests or conflicts of interest that may arise in respect of their responsibilities as a member of the Council.
- 4.13 Members must at all times ensure that any claims for expenses, allowances, and any use of facilities and services provided by the Council are strictly in accordance with the rules laid down on these matters.

Leadership

- 4.14 Members must set an example by their behaviour and shall act in a way that enhances public trust and confidence in the integrity of the Council and its Members.
- 4.15 Members must show respect and courtesy to others.
- 4.16 Members should value the Council's officers and work alongside them to achieve the Council's objectives.
- 4.17 In their dealings with the Council's employees, Members must have regard to the Council's protocol on Member/Officer Relations and on no account should they behave in a manner that might constitute bullying.

5.0 Register of Interests

- 5.1 The Council's Monitoring officer maintains a register of interests of Members and co-opted Members of the Council.
- 5.2 The Council has determined what interests Members are required to enter in the register of interests, including those disclosable pecuniary interests prescribed by regulations. These disclosable interests are listed in Schedule 1.
- 5.3 Members must notify the Council's Monitoring Officer of any disclosable pecuniary and non-pecuniary interests that should be recorded in the Council's register of interests.
- 5.4 Within 28 days of becoming a councillor, all Members must submit to the Monitoring Officer a list of their disclosable interests and must notify the Monitoring Officer of any changes as and when they arise.

Comment [A2]: ¹ The regulations governing disclosable pecuniary interests have yet to be published. Therefore, paragraphs 4.12 and 5.1 – 5.3 will need to be reviewed at that time in the light of those regulations.

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