

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



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

11 March 2016

Dear Councillor

**GENERAL PURPOSES COMMITTEE – THURSDAY, 24 MARCH 2016**

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

**7. Code of Conduct Matters – Update/Report on the Arrangements for Ethical Standards**

To consider an update on Code of Conduct matters including an overview of how Code of Conduct work will be undertaken following the introduction of the shared legal service arrangements.

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

Yours sincerely

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Committee Services Officer

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**Central Bedfordshire Council**

**GENERAL PURPOSES COMMITTEE**

24 March 2016

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**Report on the Arrangements for Ethical Standards**

Advising Officer: Quentin Baker, Assistant Director Legal and Democratic Services (interim) and Monitoring Officer  
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**Purpose of this report**

1. To provide the Committee with a summary of the Council's ethical governance and arrangements over the last 6 months.

**RECOMMENDATIONS**

The Committee is asked to:

1. Note how the Council has complied with its obligations in respect of ethical standards under the Localism Act 2011 for the 6 months since August 2015;
2. Approve the proposal to extend the term of appointment of the panel of independent persons

**Overview and Scrutiny Comments/Recommendations**

1. This Report is an update on ethical standards to General Purposes Committee. No decision by the Executive or Council is required.

**Introduction**

2. The Localism Act 2011 introduced revised arrangements for local authorities in respect of ethical standards, including the Code of Conduct, Register of Interests and the handling of complaints. This Council's obligations under the Act included certain responsibilities regarding the Register of Interests and the conduct of complaints relating to Town and Parish Councils (T&PCs).
3. The Localism Act 2011 came into force on 1 July 2012 and in accordance with the Act the Council adopted a Code of Conduct,

approved the matters that should be included in the Register of Interests and appointed a panel of Independent Persons to provide views on complaints. New procedures were introduced and the arrangements for dealing with ethical standards within the Constitution were amended on 29 January 2015 and further amended to remove the right of appeal on 17 December 2015.

4. The last update to members was timetabled for the General Purposes Committee in September but as this meeting was cancelled it actually took place in December 2015. Members nevertheless requested a further update in March 2016.

### **The Code of Conduct**

5. The Code of Conduct adopted by the Council has also been adopted by most T&PCs in the area. However, it is open to each Council to adopt its own code and so there is not a single code of conduct that covers all councils in Central Bedfordshire. It is important therefore for Members to be clear which Code they are working to, and for the Code to be easily accessible to members of the public e.g. published on Councils' websites.
6. In practice, the Code seems to provide a sound framework for issues regarding the conduct of Members. However an ongoing issue and area of debate remains the sanctions available to the Standards Sub Committee in the event of a breach of the Code. Where there is a serious breach or persistent breaches of the Code there is no ability to suspend a Member from public office or attendance at public meetings. A list of sanctions are found at paragraph 11 of Appendix A attached.

### **The Register of Interests**

7. The items that must be included in the Register of Interests are those disclosable pecuniary interests that were prescribed by the government in Regulations. The Council also adopted the following general obligation: As an over-riding obligation, Members are required to abide by the law and the Nolan Committee Seven Principles of Public Life in determining whether any additional interests should be disclosed.
8. All councillors are under an obligation to notify the Monitoring Officer of any disclosable pecuniary interests they have within 28 days of their election to the Council. Guidance issued by the Secretary of state in August 2012 emphasised that under the principle of honesty holders of public office have a duty to declare any private interests relating to their public duties and that this is an ongoing obligation during a Member's term of office.
9. Members are responsible for updating their register within 28 days of any change in their interests. Failure to disclose a pecuniary interest is a potential criminal offence. All Council members have disclosed their

pecuniary interests since the May 2015 election. One member does need to update their interests and assistance with this is required and is being arranged.

10. This Council's Monitoring Officer is responsible under the Act for ensuring that the registers of interest for all the T&PCs in Central Bedfordshire are published on the Council's website and are available for inspection.
11. Currently the Council has been informed of 660 Town and Parish Councillors (this figure includes notification of co-opted councillors) and as at 9 March 2016 the Monitoring Officer has received 622 completed forms which is a 94% return. Queries are continuing to be resolved and Committee Services continues to chase outstanding forms.

### **Independent Persons**

12. The Act provides that each Council must appoint at least one Independent Person whose views are to be sought and taken into account before the Council makes a decision following the investigation of a complaint that a Member of the Council or a Town or Parish Councillor has failed to comply with the Code of Conduct. The Council normally also consults an Independent Person when making a decision on how to progress a complaint which comes under the Code of Conduct. Subject Members also have the right to consult an Independent Person if a complaint is made about them. A minimal fee and reasonable expenses are provided to an Independent Person per case.
13. The Council worked in collaboration with Luton and Milton Keynes Councils and the Bedfordshire and Luton Fire & Rescue Service and the Buckinghamshire and Milton Keynes Fire Authority to establish a joint panel of Independent Persons. All Independent Persons are held on the Panel by way of retainer, the cost of which is shared across the Authorities with each Authority paying fees and expenses for their own cases.
14. This arrangement continues to work well providing an effective backstop and reality check for the Monitoring Officer as part of the initial assessment and investigations stages of the procedures and support for Members against whom a complaint has been made. This arrangement also provides greater resilience in the event of unavailability, conflict and also for peaks of complaints as well as a greater breadth of experience.
15. The appointments to the panel are due to end in September 2016. It is proposed that the appointments are extended for a further 4 years to a date to be decided. The agreement of the other Authorities and the Independent Persons to this proposal is being sought and once obtained an extension can then be arranged.

## Complaints

16. A copy of the procedure that the Council has adopted for handling complaints is attached as Appendix A.
17. The procedure provides that where the conduct complained of comes under the Code of Conduct, the Monitoring Officer will carry out an initial assessment of the complaint, in consultation with an Independent Person to decide whether there is a potential breach of the Code of Conduct and accordingly to take (i) no further action, (ii) recommend a local resolution, or (iii) proceed to a formal investigation. If a formal investigation is required, interviews will be conducted by an investigating officer and the views of the Independent Person sought. A report is then produced for the Monitoring Officer to make a final decision or refer to the Standards Sub Committee. At any point the Monitoring Officer can ask for a review of the complaint by the Standards Sub-Committee or (after investigation) a hearing to determine the facts and, if appropriate, sanction the Member. Current resources to administer this work are the Monitoring Officer's time, support from the Corporate Lawyer (currently 1FTE) and assistance from the Committee Services Manager is available. During the past 6 months no cases have been formally investigated.
18. For the period September 2015 to March 2016 the Monitoring Officer has received 11 complaints (there were 19 in the same period last year) with 9 complaints being carried over from August 2015 making a total of 20 complaints being dealt with in the period. The complaints received are spread across 9 T&PCs and Central Bedfordshire Council. In this 6 month period 3 of the complaints received were against CBC councillors. As at the end of February 2016 all complaints had been closed.
19. Appendix B shows the cumulative totals of complaints received since June 2012.

## Training

20. Since August 2014 there has been ongoing liaison with the Clerks which has seen an increase in the queries related to ethical matters. It is considered this has resulted in matters being dealt with before they become complaints.
21. T&PCs are also still being encouraged to deal with more minor matters at a local level. This has resulted in an increase in guidance being provided to both Councillors and Clerks.
22. Various presentations and briefings have been held in the past year. A session on social media is still being planned. It is anticipated that

once a presenter is identified the session can be arranged after June 2016. Interest has already been shown for this session.

### **Arrangements for the Future**

23. The Monitoring Officer retains statutory responsibility for dealing with Code of Conduct complaints. The day to day work relating to Code of Conduct and ethics issues will however be provided by LGSS Law Ltd who will continue to liaise with the T&PCs to encourage best practice in use of their procedures and standing orders, as well as liaising with NALC and the Council's Partnership Team to facilitate further training and development opportunities for all Councillors and guidance for Councillors and Clerks.
24. Monitoring and statistics for Code of Conduct complaints will continue to be provided.
25. Where T&PCs require guidance unrelated to ethical matters this will be dealt with between LGSS Law Ltd and the T&PCs separately.

### **Council Priorities**

26. The effectiveness of the Council's governance arrangements contributes to the achievement of all the Council's priorities.

### **Corporate Implications**

#### **Risk Management**

27. It is important that the Council has in place an effective local framework to secure high ethical standards in the conduct of its business. The main risk to the Council of a failure in the area of ethical standards is reputational.

#### **Staffing (including Trades Unions)**

28. There are no specific staffing issues arising from this report, however members are reminded that the Councillor Code of Conduct is complemented by the Protocol for Member/Officer Relations.

#### **Legal Implications**

29. Under the Localism Act 2011, the Council introduced, as required, revised arrangements governing ethical standards, including a Code of Conduct, arrangements for handling complaints and the establishment of a Register of Members Interests. The Council also has responsibility for overseeing the arrangements that are adopted by T&PCs and for investigating Code of Conduct complaints made against Town and Parish Councillors.

### **Financial Implications**

30. This report raises no specific financial implications at this time. However Members are advised that there are limited resources available for this work. Guidance on, and work related to, ethical matters will be work undertaken by LGSS Law Ltd on behalf of the Council and therefore there is a need to ensure such work is as efficient as possible to minimise costs.

### **Equalities Implications**

31. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These requirements are recognised in the accountability principle of public life which forms part of the Members Code of Conduct.

### **Conclusion and next Steps**

32. Although the number and types of complaints cannot be predicted, the figures show that the number of complaints being dealt with has reduced slightly and the turnover of complaints is much quicker.

### **Appendices**

The following Appendices are attached:

Appendix A – Section F2 of Constitution – Arrangements for dealing with Standards Allegations under the Localism Act 2011

Appendix B – Cumulative total of Councillor Code of Conduct Complaints



**F2 ARRANGEMENTS FOR DEALING WITH STANDARDS  
ALLEGATIONS UNDER THE LOCALISM ACT 2011****1. Context**

These "Arrangements" are made in accordance with section 28 (6) and (7) of the Localism Act 2011. They set out how to make a complaint that an elected or co-opted member of this Council or of a parish council within its area has failed to comply with the relevant authority's Code of Conduct. They also set out how the Council will deal with any complaints about such failures.

**2. The Code of Conduct**

Central Bedfordshire Council has adopted a Code of Conduct for Members, and this Code is available for inspection on the Council's website or on request from the Monitoring Officer at Priory House, Chicksands.

Each town and parish council in the area is also required to adopt a Code of Conduct. Copies of these Codes are available on the relevant council's website or on request from the town or parish clerk.

**3. The Independent Person**

The Council is required to appoint at least one independent person. The Council must consult an independent person and take his/her views into account before making a decision on a complaint that it has investigated.

The independent person may be consulted by the Council at various stages in the complaints process and can also be consulted by a Member who is the subject of a complaint.

**4. Making a complaint**

A complaint that a member of Central Bedfordshire Council or of a town or parish council in the District has failed to observe the Council's Code of conduct should be submitted to:

The Monitoring Officer  
Central Bedfordshire Council  
Priory House  
Monks Walk  
Chicksands  
Shefford  
Bedfordshire  
SG17 5TQ

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the arrangements for complaints about Member misconduct.

In order to ensure that the Monitoring Officer has all the information needed to process complaints, they should be submitted using the model complaint form which also explains the process and the relevant referral criteria at initial assessment. The complaint form can be downloaded from the Council's website. A copy of the form is also available on request from the Monitoring Officer.

Complainants must provide their name, postal address and, where possible, their email address. The Council will not normally investigate an anonymous complaint, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of the complaint and will notify the Member against whom the complaint is directed by providing a copy of the complaint to them within 5 working days of receiving it, and will keep both the complainant and the Member informed about the progress of the complaint.

## **5. Initial Assessment**

The Monitoring Officer will assess every Councillor Code of Conduct complaint received and, after consultation with the Independent Person, will take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of a complaint but may take longer if additional information is sought.

Whilst each allegation will be considered on its individual merits, the following "Referral Criteria" will be used at the initial assessment to decide whether to accept a complaint for investigation, take no further action or to decide upon some form of local resolution.

## Referral Criteria

The matters detailed below will be considered.

- Is the subject Member still a serving Member?
- Is the information submitted sufficient on which to make a decision?
- Is the complaint the same as or similar to a previous complaint?
- the complainant's view of the action which is proposed or has been taken
- the steps already taken or proposed to remedy the action complained of
- complaints about a Council member by a member of the same Council will not normally be referred until the Monitoring Officer considers that other processes such as informal, political group or Chairman mediation have taken place
- the time passed since the alleged conduct occurred
- whether the complaint involves conduct too trivial to warrant further action
- whether the complaint appears to be malicious, politically motivated or tit for tat
- whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
- the public benefit in investigating the alleged complaint
- the availability and cost of resources balanced with the seriousness of the alleged matter
- Any complaint made by an officer about a Council member will normally only be referred for investigation after the protocol for Member/Officer Relations has been pursued.
- any other substantial reason.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may ask the complainant to provide further information, and may also request information from the Member against whom the complaint is directed.

Where the complaint relates to a parish councillor, the Monitoring Officer may also inform the Parish Council about the complaint.

**6. Informal Resolution**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve, for example, the Member accepting that his/her conduct was unacceptable and offering an apology, or other appropriate remedial action. Where the member or the authority makes a reasonable offer of informal resolution, but the complainant is unwilling to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

**7. Investigation**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint, to obtain an understanding of events, to identify what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer will normally contact the Member against whom the complaint has been made to provide him/her with a copy of the complaint and to obtain the member's explanation of events. The Member will be invited to identify what documents the Investigating Officer needs to see and who he/she needs to interview.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or where disclosure of the details of the complaint to the member might prejudice the investigation, the Monitoring Officer may redact the complainant's name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

At any point, the Investigating Officer may refer the complaint to the Monitoring Officer to resolve it without a full investigation or to reject it.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Member concerned, to give them both an opportunity to identify any matter in the report with which they disagree or which requires more consideration.

Having received and taken account of any comments made on the draft report, the Investigating Officer will submit his/her final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and will decide what action to take. There are three possible courses of action:

- **No action**
- **Local Resolution**
- **Hearing**

**8. No Action**

If the Investigating Officer concludes that there has been no breach and the Monitoring Officer is satisfied that this conclusion is sound, then he/she may decide that no further action should be taken in relation to the complaint. If the Monitoring Officer is not so satisfied, then his/her decision will be final.

**9. Local Resolution**

If the Investigating Officer concludes that there has been a breach of the Council's Code of Conduct, the Monitoring Officer may, after consulting the Independent Person, seek a local resolution of the complaint.

A local resolution may include the Member acknowledging that his/her conduct was unacceptable and offering an apology and or accepting other remedial action by the Council.

If the Member and the complainant agree to accept the suggested resolution, the Monitoring Officer will report the matter to the Standards Sub-Committee (and the Parish Council) for information, but will take no further action. Neither the Member nor the complainant has the right to reject the Monitoring Officer's suggested resolution and any non-acceptance by either will be reported to the Standards Sub-Committee.

**10. Hearings**

If the Monitoring Officer considers that 'local resolution' or 'no action' is not appropriate or adequate, then the Monitoring Officer will submit the Investigating Officer's report to the Standards Sub-Committee which will conduct a hearing into the complaint before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the matter.

Following the hearing, the Standards Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so will dismiss the complaint.

If the Standards Sub-Committee concludes that the Member has failed to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code.

Before reaching a decision, the Standards Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person.

## **11. Sanctions**

The Council has delegated to the Standards Sub-Committee authority to take such action in respect of individual Members as may be available to promote and maintain high standards of conduct. Accordingly the Sub-Committee may –

- 11.1 censure the Member;
- 11.2 publish its findings in respect of the Member's conduct;
- 11.3 report its findings to the Council (or to the Parish Council) for information;
- 11.4 instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- 11.5 inform the Member's Group Leader

The Standards Sub-Committee has no power to suspend or disqualify the Member or to withdraw any special responsibility allowances to which the Member may be entitled under the Council's Members' Allowances Scheme.

The Independent Person is invited to attend all meetings of the Standards Sub-Committee and his/her views will be sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and also as to any action to be taken following a finding of failure to comply with the Code of Conduct.

**12. Appeal**

If either the complainant or the Member against whom a complaint has been made is dissatisfied with the outcome, he/she may ask for the decision to be appealed. Any appeal will be undertaken by the Standards Appeals Sub-Committee made up of Members who have not previously been involved in the consideration of the complaint.

Any appeal request must be received in writing by the Monitoring Officer within 21 days of issue of the written decision notice and only on the grounds of:

- the procedure having been wrongly applied
- new evidence having come to light since the hearing
- a misdirection in law.

The appeal hearing will be restricted to consideration of the papers. An Independent Person who has not previously been consulted will be asked to give their view.

The Standards Sub-Committee may:

- set aside the original decision if it considers it to be unreasonable and substitute its own decision
- confirm the original decision.

There will be no further right of appeal.

**13. Revision of these arrangements**

The Council has delegated its responsibilities under Chapter 7 of the Localism Act 2011 to the General Purposes Committee. The General Purposes Committee may therefore amend these arrangements. The General Purposes Committee resolved on 17 July 2014 that authority be delegated to the Monitoring Officer, in consultation with the Chairman of the General Purposes Committee, to amend the arrangements for dealing with Standards allegations made under the Localism Act 2011.

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**Councillor Code of Conduct Complaints Cumulative Summary**

Month	Cases Opened in Month	Cases closed in Month	Number of active cases at end of Month
June 12	4	-	4
July 12	1	-	5
August 12	3	-	8
September 12	1	-	9
October 12	-	-	9
November 12	2	1	10
December 12	-	-	10
January 13	2	-	12
February 13	-	-	12
March 13	-	-	12
April 13	8	-	20
May 13	3	-	23
June 13	3	-	26
July 13	2	-	28
August 13	-	-	28
September 13	-	-	28
October 13	2	-	30
November 13	1	14	17
December 13	5	-	22
January 14	-	-	22
February 14	-	-	22
March 14	1	1	22
April 14	11	-	33
May 14	6	6	33
June 14	7	1	39
July 14	9	6	42
August 14	3	8	37
September 14	2 (1 new + 1 review)	10	29
October 14	5	7	27
November 14	4	1	30
December 14	2	14	18
January 15	1	4	15
February 15	4	3	16
March 15	3	3	16
April 15	1	9	8
May 15	3	1	10
June 15	-	1	9
July 15	2	3	8
August 15	4	3	9
September 15	1	4	6
October 15	4	4	6
November 15	0 *	5	1
December 15	2	1	2
January 16	0	2	0
February 16	3	3	0
March 16	1		

\*originally "1" however this was actually a general complaint not a Code issue so was removed

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