

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **GENERAL PURPOSES COMMITTEE** held at Room 14, Priory House, Monks Walk, Shefford on Tuesday, 3 December 2013

PRESENT

Cllr P Hollick (Chairman)
Cllr R C Stay (Vice-Chairman)

Cllrs P N Aldis
Mrs C F Chapman MBE
J G Jamieson
M R Jones

Cllrs D J Lawrence
Mrs J G Lawrence
J Murray

Apologies for Absence: Cllrs A L Dodwell
B Saunders
N Warren

Substitutes: Cllrs K Janes (In place of B Saunders)
A Shadbolt (In place of A L Dodwell)
M A G Versallion (In place of N Warren)

Members in Attendance: Cllrs R D Berry
D Bowater
D Jones

Officers in Attendance: Ms D Clarke – Director of Improvement and Corporate Services
Mrs M Clay – Chief Legal and Democratic Services Officer
Mrs C Jones – Head of HR Policy and Development
Mr L Manning – Committee Services Officer
Mr P Meigh – Chief Procurement Officer
Ms M Peaston – Committee Services Manager
Mr M Scott – Chief Information Officer

GPC/13/21 **Minutes**

RESOLVED

that the minutes of the meeting of the General Purposes Committee held on 18 July 2013 be confirmed and signed by the Chairman as a correct record.

GPC/13/22 **Members' Interests**

None.

GPC/13/23 **Chairman's Announcements and Communications**

The Chairman welcomed Melanie Clay, the new Chief Legal and Democratic Services Officer, and Paul Meigh, the Chief Procurement Officer, to their first meeting of the Committee.

GPC/13/24 **Petitions**

No petitions were received from members of the public in accordance with the Public Participation Procedure as set out in Annex 2 of Part A4 of the Constitution.

GPC/13/25 **Questions, Statements or Deputations**

No questions, statements or deputations were received from members of the public in accordance with the Public Participation Procedure as set out in Annex 1 of Part A4 of the Constitution.

GPC/13/26 **Conversion Incentive**

The Committee considered a joint report by the Deputy Chief Executive/Director of Children's Services and the Director of Improvement and Corporate Services on the proposed payment of a conversion incentive to team members in Children's Services following the conversion of an experienced agency social worker to a permanent employee of the Council.

The Director of Improvement and Corporate Services reminded Members of the continuing difficulties in recruiting and retaining experienced staff in Children's Services in the face of a national shortage in this area. She explained how the need to increase the number of posts was in response to the impact of high profile abuse cases and other factors resulting in the number of Looked After Children in Central Bedfordshire Council rising substantially each year since 2009. Indicators and statistical data showed that the number of Looked After Children would continue to rise in the foreseeable future. However, the increasing number of vacancies had led to a reliance on agency workers who could earn considerably more than an employee, despite the payment of market rate supplements to the latter, although agency workers did not receive benefits such as a local government pension. The national shortage was predicted to continue for approximately a decade.

The Committee noted the work undertaken in Children's Services by a Social Work Development Group which was considering a number of issues within social work including the challenges faced relating to recruitment and retention. Linked to this the Group had examined the benefits of providing incentives to encourage experienced agency social workers to join the Council as permanent employees. A number of options had been considered but it was now suggested that an Agency Worker Conversion Incentive be introduced under which team members would receive the incentive when an agency worker took up a permanent post following the successful completion of the normal recruitment procedures. All team members, excluding managers, would receive an equal share of a payment of £8k in recognition of their creation of an attractive environment that the agency worker wanted to join. Given that the agency worker cost approximately £20k more each year than a permanent employee it was stated that a considerable saving would still be made.

The Director of Improvement and Corporate Services advised the meeting that there had been no briefing or consultation on this proposal with Members or other parties and it was therefore intended that the scheme be first trialled for a period of six months. She stated that details of the scheme itself would be worked up if the Committee indicated its support for it and wider consultation would also take place with the unions.

Although a Member suggested that the trial be postponed to first allow briefing and consultation and the submission of a further report to the next meeting of the Committee, another member of the Committee, drawing on his knowledge as Executive Member for Children's Services, advised against any delay given the challenges being experienced with social worker recruitment and retention. He added that the issues had been considered over the previous six-twelve months and the officer report before the Committee clearly set out the reasons in support of the scheme.

Full discussion took place on how a conversion incentive scheme could operate. Members sought clarification on a number of points and suggested various measures to ensure a scheme's effective and efficient working.

NOTED

the trialling for six months of a scheme to encourage and reward staff who persuade agency social workers in Children's Services to take up permanent employment with the Council.

RESOLVED

- 1 that, once confirmed, details of the above scheme be circulated to members of the General Purposes Committee for their information;**
- 2 that a report on the outcome of the six month trial for the recruitment incentive scheme in the Children's Services Directorate be submitted to the General Purposes Committee.**

(Note: minute GP/13/29 also refers).

GPC/13/27 **Review of the Member/Officer Protocol**

Members considered a report by the Monitoring Officer which proposed amendments to the Protocol for Member/Officer Relations contained within Part F4 of the Council's Constitution.

The meeting noted that the proposed amendments included specific guidance for Members on the use of email when undertaking Council business. In connection with this matter the report referred to the guidance issued by the Information Commissioner setting out Members' responsibilities in relation to the holding and processing of personal information, including the need for councils and Members to be aware of the need to arrange appropriate security. The meeting noted that, over the last two years, the Commissioner had imposed financial penalties ranging between £80k and £120k on local authorities because of disclosures of personal information relating to children and adult social care service users.

The meeting was advised that ensuring that Members complied with the Council's arrangements governing the use of emails was an important part of the Council's own security measures. As such the amended Protocol stated that Members should use their Council email address for Council business. This meant that the Council was the data controller for the purposes of the Data Protection Act and ultimately the Council would be responsible for any breach of security. The amended Protocol also required Members to use the Council's Citrix system when working from a fixed location or from the approved Mobile Device Management solution when using a smart phone or tablet.

A Member expressed some concern on the overall effectiveness of the Council's Citrix system and his own use of alternative software for mobile use. The Member and the Chief Information Officer undertook to discuss this matter further outside the meeting.

The Chief Information Officer stressed to the Committee that the proposed amendments to the Protocol attempted to strike a pragmatic balance between meeting central government requirements and allowing Members to continue to use their own devices.

The Director of Improvement and Corporate Services advised that discussions would be held with each Member on the data protection requirements.

RECOMMENDED TO COUNCIL

that the amendments to the Protocol for Member/Officer Relations, as set out at Appendix A to these minutes, be approved and the revised Protocol be included in the Council's Constitution.

GPC/13/28 **Constitution - Proposed Amendments**

The Committee considered a report of the Executive Member for Corporate Resources which set out a number of proposed amendments to the Constitution. The Committee Services Manager introduced the report, the meeting noting that the proposed amendments fell into two areas. The first, as set out in Appendix A to the report, dealt with minor changes to the Constitution including the correction of errors and the general updating of the document. Because of their nature the Committee could authorise the Monitoring Officer to undertake the amendments.

A Member referred to the proposed amendment to paragraph 2.2.2.17 of Part B5 which removed the words 'and consider' from the wording relating to the receipt of an annual report from the Leader of the Council outlining policy priorities for the forthcoming year. The Member stated that the proposed amendment would remove the opportunity to debate the Council's direction of travel. In response, however, it was stated that the annual report presented a 'state of the nation' paper and that other opportunities to debate the Council's policies existed. Further, the amendment removed any confusion by Members as to the purpose of the report. In response to a comment by the Member regarding the absence of opportunity to formally debate policies elsewhere another member of the Committee, in his capacity as Leader, suggested that the existing item on Council agendas for Executive Members to report orally and answer questions on matters contained within their reports could be used for this purpose. Following comment the Leader undertook to ensure that the Executive Members due to report would be identified on the agenda although he emphasised that this could be provisional and subject to change.

The meeting then considered two proposed amendments to Part H3 of the Constitution to remove the requirement to gain the prior approval of the appropriate Executive Member for determining rate relief for charitable bodies or for businesses suffering hardship. However, Members felt that a political input should remain on these issues and the proposed amendments were rejected.

A Member gave his opinion that the correct sequence regarding the submission of the changes to the Constitution had not been followed and the process had been retrospective in nature.

The meeting turned to consider the second area of proposed changes which related to the Code of Procurement Governance (Part I3 of the Constitution) and which were reproduced in Appendix B to the report and which were introduced by the Chief Procurement Officer. The Vice-Chairman drew the meeting's attention to the proposed wording contained in the new Table 1 within paragraph 5.1 which set out the procurement procedure dealing with the total contract/order value above the EU threshold. He referred to the lack of any indication in the Table of what the threshold figure was. In response the Chief Procurement Officer explained that this figure was variable and was about to be reviewed. The Member stated, however, that a statement providing an 'as of' date could be included and make clear that the figure was subject to change. The meeting indicated its support for this amendment.

The Member next queried the wording contained in the same part of the Chart which referred to the requirement for a minimum of 5 suppliers. The Chief Procurement Officer acknowledged that the number of suppliers stated was not a statutory requirement but a preferred figure and the wording would be amended to reflect this.

Turning next to paragraph 5.4 the Member sought clarification as to why £20k had been chosen as the figure above which every contract would be recorded in the Council's Register of Contracts. In response the Chief Procurement Officer explained that the figure had been chosen because quotations and tenders over this figure required the use of the Council's electronic tendering system and so recording was a straightforward procedure. Members felt that paragraph 5.4 should be amended to include a reference as to the why the threshold figure had been chosen.

RESOLVED

that the Monitoring Officer be authorised to amend the Council's Constitution as set out in Appendix A to the report of the Executive Member for Corporate Services, subject to the amendments outlined in the preamble above.

RECOMMENDED TO COUNCIL

that the proposed amendments to Part I3 the Council's Constitution, as set out in Appendix B to these minutes, be approved.

GPC/13/29 **Work Programme**

Members considered a report by the Head of Legal and Democratic Services setting out the proposed Work Programme for the Committee for the remainder of 2013/14 and the beginning of 2014/15.

Reference was made to the previous submission of an annual report on standards complaints in July 2013 and Members considered the possible need for an interim report on standards issues to be submitted in January 2014. Following discussion it was felt that an item on this matter should be included on the agenda if it was felt to be required.

Members were aware of the decision taken earlier in the meeting (minute GPC/13/26 above refers) for a report to be submitted on the outcome of the six month trial of a scheme to encourage and reward staff who persuaded experienced agency social workers to take up permanent employment with the Council. It was suggested that the scheduled meeting of the Committee in May 2014 could be rescheduled to June to consider this matter.

RESOLVED

- 1 that the proposed General Purposes Committee Work Programme for the remainder of 2013/14, as attached at Appendix A to the report of the Head of Legal and Democratic Services, be approved subject to the inclusion of a report on standards issues to the meeting on 20 January 2014, the report being subject to requirement;**

- 2 that a report on the outcome of the six month trial for the recruitment incentive scheme in the Children's Services Directorate be submitted to the General Purposes Committee in the summer of 2014 and that the Committee meeting due to be held on 22 May 2014 be rescheduled for this purpose if necessary.**

(Note: The meeting commenced at 10.00 a.m. and concluded at 11.06 a.m.)

Chairman

Dated

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Appendix A**F4 PROTOCOL FOR MEMBER/OFFICER RELATIONS****1. Introduction****Purpose of the Protocol**

- 1.1 Together, members and officers of the Council combine the essential skills, experience and knowledge to manage an effective public sector organisation. They work together in the interests of the citizens of Central Bedfordshire. Members provide a democratic mandate to the Council whereas officers contribute professional expertise and experience to deliver the policy framework agreed by councillors.
- 1.2 Collaborative working is the accepted norm for member and officer relations in Central Bedfordshire Council, but it is important to recognise and take account of their different roles. This is important for day-to-day interaction between members and officers and for the public perception of the Council; by ensuring transparency between the political role of members and the professional, impartial role of officers.
- 1.3 The Protocol's purpose is to provide guidance on member-officer relations and to address some key areas of interaction. The Protocol is not intended to be comprehensive. Members and officers may seek advice from the Monitoring Officer on any matter not covered by this Protocol.
- 1.4 The Protocol should be read alongside other documents relevant to the interaction between members and officers including any relevant legislation and national and local Codes of Conduct, conditions of service and any procedure for whistleblowing. Of particular importance in this context are the Codes of Conduct for Members and Officers. These Codes have direct relevance to many of the issues covered in the Protocol. The Planning and Licensing Codes of Practice are also important. These Codes can be found in the Ethical Handbook.

Quick Guide to Member and Officer Roles

| Members | Officers |
|---|--|
| Democratically elected accountable to the electorate | Accountable to the Council |
| Community leader for their ward | Serve the whole Council. |
| Add a political dimension | Politically impartial |
| Set policy and strategy, including the Budget/Council Tax | Provide advice and operational delivery within budget |
| Bound by a statutory Code of Conduct | Bound by their contract of employment and the current Code of Conduct for Officers (these may be supplemented in the near future by a statutory code). |
| Involved in senior appointments only. | Responsible for the management of staff |

Application of the Protocol

- 1.5 The Protocol is adopted by full Council and applies to all elected and co-opted members and all officers employed or engaged by the Council. The term 'officer' refers to all the Council's employees. It also includes consultants and agency staff who work for the Council. Managers must bring the protocol to the attention of officers as soon as they commence work. Where appropriate, the principles in this Protocol should be incorporated into contracts for services. This applies in particular to 'partnership' type contracts.

2. Principles of Member/Officer Relations

Basic Principles

- 2.1 Like all effective partnerships, member-officer relations are based on the following principles:-
- 2.1.1 Mutual trust and respect of the different roles of members and officers;
 - 2.1.2 A common purpose; providing the best possible service to the residents and other stakeholders of Central Bedfordshire Council;
 - 2.1.3 A commitment to non-confrontational resolution of disputes.

- 2.2 Mutual trust and respect is based upon an understanding of the distinct contribution members and officers make and respect for the boundaries between those roles. A key principle for officers is their political impartiality; they serve the whole Council and not particular groups or members. This is particularly important for some officers, who occupy politically restricted posts and are therefore prevented by law from engaging in political activities beyond party membership.
- 2.3 Further, some officers hold posts with mandatory statutory responsibilities including the Chief Executive, Monitoring Officer, and Chief Finance Officer, Members must respect these responsibilities and accept that these officers may be required to give advice or make decisions which members may not agree with or support.

Expectations

- 2.4 Members can expect and will receive from officers:-
- 2.4.1 A commitment to the Authority as a whole, and not to any political group;
 - 2.4.2 A working partnership;
 - 2.4.3 An understanding of and support for respective roles, workloads and pressures;
 - 2.4.4 Timely response to enquiries and complaints;
 - 2.4.5 Professional and balanced advice, based on evidence and including options, not influenced by political views or preference, which does not compromise the political neutrality of officers;
 - 2.4.6 Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
 - 2.4.7 Awareness of and sensitivity to the political environment;
 - 2.4.8 Respect, dignity and courtesy;
 - 2.4.9 Training and development in order to carry out their role effectively;

- 2.4.10 Integrity, openness, mutual support and appropriate confidentiality;
 - 2.4.11 Not to have personal issues raised with them by officers outside the agreed procedures;
 - 2.4.12 That officers will not use their relationship with members to advance their personal interests or to influence decisions improperly;
 - 2.4.13 That officers will at all times comply with the Code of Conduct for Officers.
- 2.5 Officers can expect and will receive from members:-
- 2.5.1 A working partnership;
 - 2.5.2 An understanding of and support for respective roles, workloads and pressures;
 - 2.5.3 Political leadership and direction;
 - 2.5.4 Respect, dignity and courtesy;
 - 2.5.5 Integrity, openness, mutual support and appropriate confidentiality;
 - 2.5.6 Not to be subject to bullying, harassment or to be put under undue pressure. Members should have regard to the seniority of officers in determining what reasonable requests are, having regard to the relationship between members and officers, and the position of officers, particularly at junior levels;
 - 2.5.7 That members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
 - 2.5.8 That members will at all times comply with the Code of Conduct for Members.

If these expectations are not met then difficulties are likely to arise and this may lead to complaints and the dispute resolution procedure in section 8 may need to be used.

- 2.6 The remainder of this Protocol will address specific areas of member-officer interaction

3. Working Arrangements

- 3.1 Members and officers work together on a regular basis in meetings, committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of member-officer relations are upheld, the following guidance applies.

Forms of Address and Conduct at Meetings

- 3.2 In formal Council, Executive, committee or sub-committee meetings:-
- 3.2.1 Members should normally be referred to by their office: e.g. Leader, Chairman or Councillor and, otherwise, normal courtesies shall be observed;
 - 3.2.2 Relations can be friendly and cordial but not over familiar, as the public or other members and officers could perceive this as inappropriate or favouritism;
 - 3.2.3 Criticism should be constructive and not personal;
 - 3.2.4 Officers will not allow themselves to be drawn into a party political debate.
- 3.3 This guidance also applies to informal meetings to the extent that all present consider it necessary. Members and officers should ensure that their interaction does not embarrass others, suggest favouritism or personal dislike or otherwise damage working relationships.

Personal Relationships

- 3.4 If a friendship or closer relationship (including relatives) exists or forms between a member and an officer, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction. In such situations:-
- 3.4.1 Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings;

- 3.4.2 Officers must raise the matter with their Assistant Director or Director to discuss appropriate action.

4. Supporting Political Groups and Individual Members

Support for Political Groups

- 4.1 Political groups (including the Cabinet) may ask the Chief Executive (~~or, in his/her absence, or~~ the relevant Director) for a briefing on Council business. If the Chief Executive or the Director agrees, the following principles will apply:-
- 4.1.1 Only senior officers will give briefings (although they may be accompanied by junior officers with specialist knowledge);
 - 4.1.2 Briefings will cover Council business only and officers will not be asked or allow themselves to be involved in a political discussion or discussion of any other matter than the subject of the briefing;
 - 4.1.3 Briefings given to one group will be available to any political group, on request;
 - 4.1.4 Officers will respect the confidentiality of political group meetings;
 - 4.1.5 Officers may refuse to brief meetings attended by a non-member (except for other council officers), as they are not bound by the Code of Conduct's obligations of confidentiality and also, other than the above, officers must not attend political party meetings, as this may jeopardise their impartiality;
 - 4.1.6 Briefings are not a substitute for the provision of information and advice in formal Council meetings.
- 4.2 For clarity, briefings are restricted to the political groups within the Council and do not include any meeting arranged by a political party itself.

5. The Management of Officers

- 5.1 Although officers will support, advise and respond to members' requests, the law is clear that only other officers can manage officers. This means that:-

- 5.1.1 Day to day management of officers is the responsibility of managers and ultimately the Chief Executive, acting as Head of Paid Service.
- 5.1.2 Officers will comply with all reasonable requests from members but individual members cannot instruct officers to do any piece of work or take any course of action.
- 5.1.3 Officers will not seek any member's support in any employment or other dispute or a Council appointment or promotion except in so far as is provided at paragraph 1.2 of the Officer Employment Procedure Rules at Part H4 of the constitution.
- 5.1.4 Members are responsible for the recruitment and appointment of the Chief Executive, Directors, Chief Finance Officer and Monitoring Officer, in accordance with the Council's Officer Employment Procedure Rules.
- 5.1.5 Officers are responsible for recruitment of all other officers.
- 5.1.6 Members' role in any formal action against an officer or grievance involving an officer is limited to reporting an officer's actions to their manager and/or as a witness (except where the Officer Employment Procedure Rules at Part H4 of the constitution provide otherwise).
- 5.1.7 When representing the Council at meetings about industrial relations matters, members must remember that they represent the Council as an employer and are not there to represent the officers. This applies in particular to meetings with trade union representatives. If a member considers that they cannot undertake this task from this perspective, they should withdraw from this role.

6. Access to Information

- 6.1 To carry out their duties effectively, members must have broad access to Council information. The following principles apply here:-
 - 6.1.1 Members' access to information will be compliant with their statutory and common law rights (see Appendix A for details);

- 6.1.2 Officers will not withhold information from a member who is entitled to receive it (see Appendix A for details);
- 6.1.3 Where confidential, personal or otherwise sensitive information is provided to a member, they will deal with that information in accordance with the Members' Code of Conduct at Part F2 of the constitution;
- 6.1.4 Any disputes relating to access to information will be referred to the Monitoring Officer for determination;
- 6.1.5 Further information on access to information is available at **Appendix A**.

6.1.6 Use of IT Systems

a) Members are bound by the terms of the Council's Acceptable Use Policy when using Council systems and must sign the Policy prior to accessing systems and data.

b) Members must use Council email for all council business and must not auto-forward or copy any Council information to non-Council email accounts or software programmes. Under no circumstances should commercially sensitive or personally identifiable information be forwarded from Council email addresses to Members' private email addresses.

c) Access to Council email from a fixed location, such as a home or workplace address, will be provided using a personally owned device, such as a laptop or PC, and the Council's Citrix system and a two factor authentication token.

d) Members may synchronise their Council email and calendars with their smart phone or tablet devices providing the approved Mobile Device Management solution has been installed and configured on the device. Members agree that the Council can wipe just the Council email and calendar information from the smartphone device if it is lost or stolen. This application does not provide the Council with access to any other data stored on the device.

Members' Enquiries

- 6.2 Members' enquiries may be made by any means.

- 6.3 Officers will make every effort to provide a substantive response to a member enquiry within **2 working days**, but if a substantive response cannot be provided officers will acknowledge receipt of the enquiry. If it is not possible to provide a substantive response within 5 working days, officers must explain:-
- 6.3.1 The reason for the delay;
 - 6.3.2 What action is being taken to pursue the enquiry; and
 - 6.3.3 The timescale within which a substantive response will be sent, which must be within 15 days, unless agreed otherwise by the member and officer.
- 6.4 Directors are responsible for ensuring that member enquiries are dealt with promptly and accurately in their Directorates.
- 6.5 Where an enquiry imposes a disproportionate burden on officers' work, this should be explained and discussed with the member concerned and senior management to agree an alternative deadline and/or response.
- 6.6 Members' enquiries, which are in fact constituent complaints, will be handled under the Council's Complaints Procedure.
- 6.7 This members' enquiry procedure supplements and does not replace members' statutory and common law rights to information.
- 6.8 Co-opted and independent members' rights of access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.

7. Media Relations and Publicity

- 7.1 The Council's Communications Service leads on all media and publicity events. The following principles are relevant to member-officer relations and the media:-
- 7.1.1 Members and officers will comply with the Council's Media and Publicity Protocol when speaking for or on behalf of the Council;

- 7.1.2 Members are free to speak to the media on any matter on behalf of a political party or as an individual but should make this clear in any statement made;
- 7.1.3 Officers must also act in accordance with the Code of Conduct for Officers when speaking about the Council in public.

8. When things go wrong: dispute resolution

- 8.1 The Council's experience is that members and officers work well together and with few formal complaints. However, it is still necessary to have a clear process to handle complaints.
- 8.2 The key principle for dispute resolution is that both members and officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 8.3 When an informal resolution is not possible, the following processes will apply.

Formal complaints about officers

- 8.4 Members should make any formal complaints about officers to their Director or the Chief Executive, copied to the Monitoring Officer. The matter will be investigated and the member will be informed of its progress and outcome.
- 8.5 In appropriate cases, breaches of this Protocol may also constitute offences under the Code of Conduct for Officers and in such cases, disciplinary action may be taken.
- 8.6 Members must remember that the decision to take formal action against an officer and the action taken is the sole responsibility of management. A member's evidence will be considered but members must:-
 - 8.6.1 Respect the confidentiality of the investigation and disciplinary process;
 - 8.6.2 Not seek improperly to influence the action taken against an employee;
 - 8.6.3 Accept the management decision.

Formal complaints about Members

- 8.7 An officer's complaint about a member should be reported to the Chief Executive and copied to the Monitoring Officer and the officer's Head of Service or Director.
- 8.8 The Monitoring Officer will, where appropriate, investigate the complaint and report the outcome to the Chief Executive, the member, the officer and officer's Director or Head of Service.
- 8.9 In appropriate cases, the Monitoring Officer will notify the relevant political group leader of the complaint and his/her findings.
- 8.10 The Monitoring Officer will seek to find a resolution to the complaint which is mutually acceptable to the member and officer concerned. If this is not possible then the Monitoring Officer will recommend necessary actions.
- 8.11 If the Monitoring Officer considers that in breaching the terms of this Protocol, the member may have breached the Code of Conduct for Members then a referral will be made to the Council's Standards Committee (see also paragraph 8.12 below).

Interaction with the Members' Code of Conduct and the Whistleblowing Policy

- 8.12 A complaint against a member may disclose evidence of a breach of the Code of Conduct. The Protocol's aim is, in part, to provide guidance and resolve disputes informally and thereby prevent Code of Conduct complaints. However, an officer's use of the dispute resolution procedure in this Protocol does not prohibit them from making a complaint under the Code of Conduct about the same matter.
- 8.13 Equally, officers and members are not prevented by this Protocol from using the Council's Confidential Reporting Policy (also known as 'Whistleblowing'), particularly for matters involving potential fraud, deception or other criminality.

9. Monitoring and Review

- 9.1 The Protocol will be monitored and reviewed by the Council's Standards Committee on an annual basis.

10. Further sources of information

| Topic | Source |
|--|--|
| Employment and appointment of officers | Officer Employment Procedure Rules Officer Terms and Conditions of Employment |
| Member conduct | The Code of Conduct for Members The Monitoring Officer www.standardsboard.co.uk Planning and Licensing Codes of Good Practice |
| Officer conduct | Code of Conduct for Officers |
| Media and Publicity | Media and Publicity Protocol Statutory Recommended Code of Practice on Local Authority Publicity |
| Complaints | Corporate Complaints Policy |
| Whistleblowing | Confidential Reporting Policy and Anti-Fraud Strategy |
| Members' Access to Information | Appendix A. Access to Information Procedure Rules |
| Freedom of Information and Data Protection | Freedom of Information and Data Protection Acts www.informationcommissioner.gov.uk |

APPENDIX A**PROTOCOL FOR MEMBER/OFFICER RELATIONS****Members' Rights of Access to Council Information**

This is a summary of the legal rights of access to Council information available to Councillors. To make a complex area simpler to understand, this guidance is a summary document and not a complete statement of the law. If in doubt, members are recommended to seek further advice from the Monitoring Officer. In short, a member's rights of access to information depend on their role within the Council. The key rights of access to council information are summarised in the table below and refers to the relevant section below.

| Person seeking access | Right of access |
|--|---|
| Public and Press | Access to all Council reports, agendas and minutes, except those reports which are exempt from public access Access to the Forward Plan of Executive decisions Rights under Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998. |
| Independent Standards Committee Members | Public and press rights: Reports for local determination hearings under the Code of Conduct (including exempt information) |
| All elected members | Public and press rights plus: "Need to know" Right to inspect "business to be transacted" by the Council |
| Scrutiny committee members | All the rights above and additional rights to Executive reports and information relating to matters it is scrutinising. |
| Executive members | All rights above and also full access to Executive reports |

1. Common Law – The “Need To Know”

- 1.1 The primary rights are in common law, i.e. case law built up over the years. Members have rights of access to information so far as access is reasonably necessary for them to perform their duties. The case law says this is not a “roving commission” to access any documents and the member needs to prove they have a right to know. A committee member generally has a need to know about matters in relation to that committee or its sub-committee. This right is not limited to formal committee papers.
- 1.2 Refusals can take into account the effects on disclosure on third parties and the need to know must be in “good faith”.
- 1.3 It should be noted that this is a right of access to the member only and for carrying out their official duties. It does not allow a member to further disclose the information and indeed the unauthorised disclosure of confidential information is a breach of the Code of Conduct.

2. Members’ Statutory Rights of Access

2.1 Access to Council and Committee documents – Local Government Act 1972

Public Access

- 2.1.1 Members have generally the same rights of access as members of the public in respect of the formal council meetings.
- 2.1.2 The default position is that there is access to all agendas, reports and minutes of council, committee and scrutiny meetings. Schedule 12A of the LGA 1972, however, sets out a list of categories of exempt information which may be excluded from public access before the meeting and by a vote of the committee itself at the meeting. The categories of exempt information within Schedule 12A are set out in the table at the end of this document.
- 2.1.3 It should also be noted that the application of an exemption is now subject to a public interest test. The Council will now have to show that the public interest is against public access.

Additional Rights of Members

- 2.1.4 Members have rights of access to information that are greater than the rights available to the public. Specifically, members have the right to inspect any document in the possession or under the control of the Council which contains material relating to any business to be transacted at a council, committee or sub-committee meeting.
- 2.1.5 It is important to note that this right is limited in the following ways:-
- ⇒ It is a right to inspect not receive a copy.
 - ⇒ It applies only to access before the meeting.
 - ⇒ It only applies to documents held at that time.
- 2.1.6 If a report contains exempt information, the right to inspect at 2.1.4 does not apply unless the information comes within either of the following categories:-
- ⇒ Paragraph 3 – information about the financial or business affairs of any person (including the Council) where the information is not about terms proposed during contract negotiations.
 - ⇒ Paragraph 6 – proposals to issue statutory notices, directions or other orders.

2.2 Access to Executive documents

All Members

- 2.2.1 The members' rights of access to executive (i.e. Executive members) documents are very similar to the regime described above but there are some key differences due to the nature of executive arrangements.
- 2.2.2 The access regime described above applies equally to executive documents so that:-
- ⇒ Executive agendas are publicly available, unless the information falls within Schedule 12A.

⇒ Members have the additional right to inspect information about business to be transacted at meetings of the Executive, subject to the same restrictions outlined above.

2.2.3 In addition, the Leader is required to publish a Forward Plan of all Key Decisions to be made by the Executive in the next 4 months. (Note: Central Bedfordshire has decided to publish a Forward Plan of all Key Decisions to be made by the Executive in the next 12 months.) The Forward Plan provides specified details of the decisions to be made and is publicly available. Key Decisions are defined in Part C2 of the constitution.

2.2.4 Executive meetings where Key Decisions are made must be held in public and there is public and member access to the agenda, reports and minutes of such meetings. At Central Bedfordshire Council, all Executive meetings are in public.

Members of Scrutiny Committees

2.2.5 Members of overview and scrutiny committees have additional rights. Scrutiny members are entitled to a copy of any document which is in the possession or under the control of the Executive of that authority, and which contains material relating to one of the following:-

- ⇒ Any business transacted at a private or public meeting of a decision-making body of that authority.
- ⇒ Any decision made by an individual Executive Member.
- ⇒ Any Key Decision made by an officer of the authority under the urgency procedure.

2.2.6 This right is limited as follows. No Scrutiny member is entitled to:-

- ⇒ A copy of such document or part of a document as contains exempt information under Schedule 12A, unless that information is relevant to an action or decision that they are reviewing or scrutinising, or which is relevant to any review contained in any programme of work of the committee or one of its sub-committees.
 - ⇒ A copy of a document or part of a document containing advice provided by a political adviser or assistant.
- 2.2.7 Scrutiny's right is a broader entitlement to copies of documents but is still limited when exempt information is being considered.
- 2.2.8 Where members of overview and scrutiny committees receive copies of Executive reports containing exempt information, they must preserve the confidentiality of that information. Therefore, before considering that item of business, the committee should pass a resolution excluding the press and public from the meeting during the consideration of the item.

3. Freedom of Information and other Statutory Rights

- 3.1 The Freedom of Information Act 2000 gives anyone the right to request information held by the Council. The Council is under a duty to confirm or deny that it holds the information and, if it does, to supply the information. The Council has 20 working days to supply the information, although in certain cases, this time limit can be extended. This right of access is subject to a number of exempt categories of information. Fees are payable for requests that take over 18 hours to provide a response.
- 3.2 Environmental information is available under the Environmental Information Regulations 2005, again within 20 working days for straightforward requests, although a fee may be charged immediately for all responses.

3.3 The Data Protection Act 1998 gives members rights of access to personal information about themselves held by the Council. It also provides for members to seek personal information about constituents they are representing subject to certain restrictions and provided that they have the consent of the constituent. The primary purpose of the Data Protection Act is to protect personal information about individuals and so generally its effect is to restrict access by members to personal information held by the Council about people unless the individual concerned is aware that it may be disclosed in this way.

3.4 The Council has approved a Data Protection Policy and a Freedom of Information Policy copies of which are available to members on request.

3.5 **Qualifications**

3.5.1 All information within paragraphs 1-7C of Schedule 12A of the Local Government Act 1972 (reproduced below) is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (the “public interest test”).

3.5.2 Information within paragraph 3 is not exempt information if it is required to be registered under:-

3.5.2.1 The Companies Act 1985;

3.5.2.2 The Friendly Societies Act 1974;

3.5.2.3 The Friendly Societies Act 1992;

3.5.2.4 The Industrial and Provident Societies Acts 1965 to 1978;

3.5.2.5 The Building Societies Act 1986; or

3.5.2.6 The Charities Act 1993.

4. The Code of Conduct

- 4.1 Members have wide rights of access to information held by the Council but this does not mean that they may share all this information with other people or the public. Much of the information disclosed under the “need to know” or the additional rights of access to Council and Executive documents will include access to confidential information, either about individuals, the Council or other persons/organisations.
- 4.2 The Code of Conduct prohibits the disclosure of confidential information, unless the member can show that the public interest in seeing the information outweighs the confidentiality, or unless the member can show that the information was already fully in the public domain. Such disclosure may also breach the Code by bringing the Council into disrepute or constitute the conferring of an improper advantage or disadvantage on any person. The Council may also face legal action for breach of confidentiality due to the member’s actions.
- 4.3 Members are strongly advised to seek advice from the Monitoring Officer in the first instance before considering the disclosure of information given to them in confidential or otherwise restricted circumstances.

| SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972- SUMMARY |
|---|
| 1. Information relating to any individual. |
| 2. Information which is likely to reveal the identity of an individual. |
| 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). |
| 4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. |
| 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. |
| 6. Information which reveals that the authority proposes — <ul style="list-style-type: none"> • to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or • to make an order or direction under any enactment. |

| |
|---|
| 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime |
| Exempt Information in Local Determination Hearings of the Council's Standards Committee Only |
| 7A. Information which is subject to any obligation of confidentiality. |
| 7B. Information which relates in any way to matters concerning national security. |
| 7C. The deliberations of a standards committee or a sub-committee |

Appendix B

I3 CODE OF PROCUREMENT GOVERNANCE

1. Introduction

- 1.1 The Council's Code of Procurement Governance, which is given operational effect by the Council's Procurement Procedures that set out the detailed provisions relating to procurement, applies to all its procurement activity except for employment contracts. Officers and members involved in procurement, contracting and asset disposal (including land and property) are required to observe the rules, and it is a disciplinary offence not to do so. The Procurement Procedures specify the minimum procedural requirements, but more exacting procedures may be appropriate in high-risk projects. The Code of Procurement Governance and Procurement Procedures are managed by the Council's Procurement Team which provides training, advice and support. Any amendments to the Code of Procurement Governance shall be considered by the ~~Constitution Advisory Group~~ General Purposes Committee and recommended for Full Council approval.

2. Strategic Principles

- 2.1 **Compliance with Legislation:** The Procurement Procedures are intended to ensure that in all its dealings the Council complies with European Union (EU) and United Kingdom (UK) law as well as with its own Code of Financial Governance and supporting Financial Procedures.
- 2.2 **Competition and Best Value:** The Procurement Procedures are based upon the principle that competition is a key driver of value for money and is to be encouraged at all times.
- 2.3 **Procurement Efficiency:** The Council intends to maximise the use of e-procurement, and wherever possible Requests for Quotations, Proposals and Invitations to Tender should be issued and received electronically. The Council will use e-auctions whenever possible.
- 2.4 **Continuous Improvement:** All contracts of more than one year duration must provide for continuous improvement throughout their lifetime.
- 2.5 **Openness, Integrity, Transparency and Fairness:** Any procurement or disposal process must demonstrate the highest standards of integrity, ensuring openness, fairness and transparency at all times. Non-commercial considerations must not be allowed to influence contractual decisions.

3. Responsibilities of Directors

- 3.1 Directors have a duty to ensure that officers dealing with contracts have written authority to do so, and comply with all appropriate rules.

4. Responsibilities of Officers

- 4.1 Officers dealing with contracts must have written authority to do so. Officers must ensure that procurement projects have policy approval and budgetary provision, and the sources of funding must be agreed and stated.

5. Key Elements of the Procurement Procedures

- 5.1 **Thresholds:** All procurement is subject to the financial thresholds in Table 1 below. ~~The Executive must approve expenditure before commencing any procurement over £500,000 per annum (revenue) or £500,000 whole life/total contract value (capital). Expenditure approval between £200,001 and £500,000 inclusive is delegated to the relevant Portfolio holder – see Part C3, paragraph 3. Proper authorisation must be obtained prior to commencement of any procurement activity. Section C2 of the Constitution sets out criteria to identify key decision. In all cases best value should be determined with regard to the whole-life cost of the works, supplies and services to be procured. If after the Tender evaluation – Following approval, the Executive need only approve the award of contracts the where the recommended contractor’s tender exceeds the approved sum, or where there are exceptional circumstances. Then the appropriate approval (in line with the original approval process) needs to be revisited.~~

Note: It is never acceptable to split contracts in order to avoid threshold requirements.

Table 1

| Total Contract Value: | Contract/ Order signed by: | Expenditure approved by: | Short listing approved by: | Procurement procedure: |
|-----------------------|----------------------------|--------------------------|----------------------------|--|
| £0- £2,000 | Authorised officer | Budget holder | No short listing required | <p>For contracts valued below £2,000 the principles of best value apply and the selection process should be documented. Wherever possible at least 2 competitive quotations should be obtained. If the contract is then awarded to any other than the lowest bidder then the reasons for doing so should be justified and recorded in writing</p> |
| £2,001 to £20,000 | Authorised officer | Budget holder | No short listing required | <p>A minimum of three written quotations on the suppliers' headed notepaper or from the suppliers' email domain to the originating officer. If the contract is then awarded to any other than the lowest bidder then the reasons for doing so should be justified and recorded in writing</p> |

| Total Contract Value: | Contract/ Order signed by: | Expenditure approved by: | Short listing approved by: | Procurement procedure: |
|---|----------------------------|---|----------------------------|---|
| £20,001- £59,999 | Authorised officer | Budget holder | Budget holder | Formal quotation by sealed bid, (Unopened Envelope) –opened in the presence of an independent authorised officer. – At least three tenders should be invited; five or more is best practice where possible. |
| £60,000 – European Union threshold | Authorised officer | Assistant Directors | Assistant Directors | A formal tender with advertisement and the inclusion of contract conditions is required. Five or more tenders should be invited where possible. A minimum of three is permitted by exception subject to the approval of the Chief Finance Officer. Guidance must be sought from the Procurement Team. |
| Above European Union thresholds below Works £3,927,260 Supplies & Services £156,442 | Director | Director up to and including £200,000 Portfolio holder between £200,001 and £500,000 inclusive Executive above £500,000 | Director | A formal European Union compliant tender is required. The Procurement Team must be involved in the project as a senior supplier in Prince 2 terms. |

| <u>Total Contract /Order Value:</u> | <u>Procurement procedure:</u> |
|--|---|
| <u>Up to £2,000</u> | <u>For contracts/orders up to £2,000 the principles of best value apply and the selection process should be documented. (Best value here means that the onus is on the officer to prove they have best value, via an enquiry or knowledge of that market). Wherever possible at least 2 competitive quotations should be obtained. If the contract is awarded to any other than the lowest bidder, then the reasons for doing so should be justified and documented</u> |
| <u>£2,001 - £20,000</u> | <u>A minimum of three written quotations on the suppliers' headed notepaper or from the suppliers' email domain to the originating officer. Use the "superlite" quotation and evaluation documents found in the Procurement Toolkit. If the contract is awarded to any other than the lowest bidder, then the reasons for doing so should be justified and documented.</u> |
| <u>£20,001 - £59,999</u> | <u>All quotations and tenders over £20,000 in value must use the Council's electronic tendering system (In-Tend). Use the "Quotation Lite" and "Evaluation Lite" documents found in the Procurement Toolkit. At least three tenders should be invited; five or more is best practice where possible.</u> |
| <u>£60,000 – EU Threshold (see footnote)</u> | <u>A formal tender with advertisement and the inclusion of contract conditions is required. Five or more tenders should be invited where possible; a minimum of three. Guidance and templates for PQQs, tenders and evaluations should be sought from the Procurement Team.</u> |
| <u>Above EU Threshold (see footnote)</u> | <u>As above, but with a minimum of 5 suppliers wherever possible. Note, EU thresholds are set by the European Union generally on a 2 year basis for supplies, services and works. These are changed according to EU & UK Legislation and the Council is bound by this legislation which sets out the levels, processes and procedures which must be adhered to. Details of the levels can be found in Table 2 of the Procurement Procedure Rules.</u> |
| <u>£500,000+</u> | <u>As above. Note the potential lead-in times for the Executive Decision making process</u> |

Footnote: As at 1 January 2014 the EU thresholds are £172,514 for goods/services and £4,342,012 for works

5.2 Requirements for Tendering:

- 5.2.1 Invitations to Tender and Requests for Quotation must include a clear specification of requirements.

- 5.2.2 All candidates invited to bid must be issued with the same information at the same time, subject to the same terms and conditions. Candidates invited to bid must have adequate and equal time in which to submit a quotation or tender.
- 5.2.3 Where the contract value exceeds £60,000 the need for wide competition is paramount, so contracts must be advertised.
- 5.2.4 Invitations to Tender must require candidates to provide sufficient detail to enable checking of their financial stability, technical ability and performance and capability in the areas of health and safety, environmental management, and equality and diversity.
- 5.2.5 All candidates must be notified in writing, simultaneously and promptly, as to the outcome of any tender exercise.
- 5.3 **Form of Contracts:** All contracts must be in writing and must clearly specify the goods, works or services to be provided, including a programme of delivery, price, terms of payment, and any other terms agreed, together with exit procedures for when the contract either comes to its natural end or is terminated early, perhaps because the contractor has not fulfilled his contractual obligations.
- 5.4 **Register of Contracts:** The Council is required to keep records of its contracting activity. Every contract over ~~£60,000~~ £20,000 must be recorded on the Council's Register of Contracts, which is the threshold level at which the Council's electronic tendering system must be used.
- 5.5 **Equal Opportunities:** The Procurement Procedures recognise the Council's duties under Race, Disability and Gender Equality legislation, including the requirement to target services on the most vulnerable sections of the community and increase inclusion and participation amongst these groups.
- 5.6 **Risk Management:** The Procurement Procedures require appropriate risk management and contingency planning arrangements for all contracts exceeding £60,000 in value.
- 5.7 **Financial Protection:** The Procurement Procedures require officers to take appropriate advice regarding bonds or parent company guarantees.

5.8 Probity and Record Keeping:

- 5.8.1 The criteria for awarding contracts must always be designed to give best value for money. Award criteria must always be appropriate to the contract, must be subject to strict change control processes, and must not be changed after tender proposals have been opened.
- 5.8.2 In the event of a marked or late tender the Section 151 Officer must decide whether or not the tender should be accepted.
- 5.8.3 Officers must ensure the confidentiality of all tender/quotation submissions.
- 5.8.4 The policy regarding the prevention and detection of corruption is set out in the Council's Code of Conduct for officers.

5.9 Post Contract Management:

- 5.9.1 All contracts must have a nominated officer to act as contract manager for the whole contract.
- 5.9.2 All contracts which exceed the EU threshold values, or which are high-risk, must be subject to regular, formal review with the contractor.
- 5.9.3 Officers must not terminate a contract over £60,000 prior to its expiry date without obtaining legal advice. Early termination requires the approval of the Chief Finance Officer.
- 5.9.4 If payments to a contractor are to be withheld or if there is a problem with a contract which may result in early termination, then legal advice must be sought.

5.9.5 Value for money reviews must take place as a minimum on an annual basis and before any contract extension.

- 5.10 **Professional Advice:** The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on its behalf. The Procurement Procedures set out the way in which consultants must be commissioned and the appropriate Inland Revenue checks to be undertaken.

- 5.11 **Waivers:** Any provision of the Procurement Procedures, except those relating to the EU Directives, may be exempted or waived in certain circumstances. Before any action is taken, waivers must be authorised in writing by the Director or Assistant Directors, The Chief Procurement Officer and the ~~Chief Finance~~ Section 151 Officer, who must be satisfied that a range of criteria are met.