

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

**This meeting may
be filmed.***



**Central
Bedfordshire**

please ask for Leslie Manning
direct line 0300 300 5132
date 13 October 2016

NOTICE OF MEETING

GENERAL PURPOSES COMMITTEE

Date & Time

Thursday, 27 October 2016 10.00 a.m.

Venue at

Room 15, Priory House, Chicksands, Shefford

Richard Carr
Chief Executive

To: The Chairman and Members of the GENERAL PURPOSES COMMITTEE:

Cllrs Mrs J G Lawrence (Chairman), G Perham (Vice-Chairman), L Birt,
Mrs C F Chapman MBE, Mrs A L Dodwell, P Hollick, J G Jamieson,
M R Jones, K C Matthews, N Warren, R D Wenham and A Zerny

[Named Substitutes:

Cllrs D Bowater, E Ghent, Ms A M W Graham, D J Lawrence, B Saunders,
M A G Versallion and J N Young]

All other Members of the Council - on request

**MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS
MEETING**

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AGENDA

1. **Apologies for Absence**

To receive apologies for absence and notification of substitute Members.

2. **Minutes**

To approve as a correct record the minutes of the meeting of the General Purposes Committee held on 30 June 2016 (copy attached).

3. **Members' Interests**

To receive from Members any declarations of interest.

4. **Chairman's Announcements and Communications**

To receive any announcements from the Chairman and any matters of communication.

5. **Petitions**

To receive petitions from members of the public in accordance with the Public Participation Procedure as set out in Annex 2 of Part A4 of the Constitution.

6. **Questions, Statements or Deputations**

To receive any questions, statements or deputations from members of the public in accordance with the Public Participation Procedure as set out in Annex 1 of Part A4 of the Constitution.

Reports

Item	Subject	Page Nos.
7.	The 2018 Review of Parliamentary Constituencies To consider the initial proposals by the Boundary Committee for England arising from the current review of Parliamentary Constituencies.	* 31 - 46
8.	Report on the Arrangements for Ethical Standards To consider a summary of the Council's ethical governance and arrangements since March 2016.	* 47 - 64

(Note: Appendix C to the report is to follow).

9. **Review of Policy and Procedure under the Regulation of Investigatory Powers Act 2000** * 65 - 92

To consider an update on the review of the policy and procedures under the Regulation of Investigatory Powers Act 2000 (RIPA) following an inspection by the Office of Surveillance Commissioners at the end of April 2016.

10. **Work Programme** * 93 - 96

To consider the Committee's work programme.

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **GENERAL PURPOSES COMMITTEE** held at Room 14, Priory House, Chicksands, Shefford on Thursday, 30 June 2016

PRESENT

Cllr Mrs J G Lawrence (Chairman)
Cllr G Perham (Vice-Chairman)

Cllrs L Birt
Mrs C F Chapman MBE
Mrs A L Dodwell
P Hollick
M R Jones

Cllrs K C Matthews
N Warren
R D Wenham
A Zerny

Members in Attendance: Cllr R D Berry

Officers in Attendance: Mr Q Baker – Monitoring Officer
Mrs D Broadbent-Clarke – Director of Improvement and Corporate Services
Mrs C Jones – Chief People Officer
Mr L Manning – Committee Services Officer
Mr J Partridge – Head of Governance
Ms M Peaston – Committee Services Manager

GPC/16/3. **Minutes**

RESOLVED

that the minutes of the meetings of the General Purposes Committee held on 24 March 2016 and 19 May 2016 be confirmed and signed by the Chairman as a correct record.

GPC/16/4. **Members' Interests**

None.

GPC/16/5. **Chairman's Announcements and Communications**

The Chairman reminded the Committee that, Deb Broadbent-Clarke, the Director of Improvement and Corporate Services, would be leaving the Council that day. The Chairman set out the roles undertaken by the Director since joining the Council in 2010 and the contribution she had made in moving the Council forward. On both a personal level, and on behalf of the meeting, the Chairman thanked the Director for her assistance and efforts during her time at the authority and wished her well for the future. The Chairman concluded by

asking Members to remain at the end of the meeting to make their individual farewells.

GPC/16/6. **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/16/7. **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/16/8. **Market Rate Supplements - Annual Updates**

The Committee considered a report by the Director of Improvement and Corporate Services which set out an update on the current application of Market Rate Supplements (MRS) to posts across Central Bedfordshire Council. The report provided information covering:

- The number of MRS payments against salary bands
- The number of MRS payments by MRS band
- The percentage cost of MRS payments against the total salary bill by directorate
- Staff turnover in the service areas in receipt of MRS.

The Assistant Director People introduced the report, drawing Members' attention to the payment of Enhanced MRS to particular staff that were already in receipt of Standard MRS. In connection with this the meeting noted that all staff in posts requiring a social work degree received a Standard MRS but those experienced workers (Social Worker level 2 and above) with case holding responsibilities in those teams with hard to fill vacancies also received the Enhanced MRS. The meeting noted that that this had proved to be a successful strategy and had enabled the Council to compete in the highly competitive job market. Further, the recruitment of experienced social workers had enabled a reduction in the use of agency staff and, therefore, a reduction in the overall spend on agency workers. Whilst there had been an increase in the proportionate spend on MRS payments to permanent members of staff this represented a better use of resources than funding the long term use of agency/interim workers. It also maximised the chance of a child building a long term relationship with their social worker rather than be subject to frequent changes through the use of temporary members of staff.

The Assistant Director People drew Members' attention to the recent approval by the Council's Corporate Management Team for the increase and extension of the current MRS payments for particular posts in social care to overcome

recruitment and retention difficulties. The Assistant Director People stressed that the supplements were mainly paid to middle ranking posts and not to senior members of staff. Further, they were only paid to those officers 'in post' and not to agency staff.

Various queries followed from Members. Arising from discussion on the substantial increase in the voluntary turnover rate within Information Technology during 2015/16 Members requested that future reports include the total number of people within a particular team together with the number of staff actually leaving so that the context could be established. The Assistant Director undertook to supply such information in future reports.

A Member referred to the development of capped rates paid to agency workers in the Eastern Region in an attempt to managing costs and sought additional information on this matter. In response the Assistant Director People stated that a maximum rate had been agreed by councils and the results had proved so successful that other regions were considering adopting the same approach. In response to a further query regarding the overall saving in agency worker costs the Assistant Director People undertook to examine this issue and advise Members.

A Member referred to Appendix C to the report which set out MRS as a percentage of salary costs over the last three financial years and expressed concern at the rapid increase in MRS costs from approximately £0.5m in 2013/14 to approximately £1.0m in 2015/16. In response the Assistant Director People explained that the costs had increased because permanent experienced staff, who attracted MRS payments, had replaced agency staff in teams where vacancies had been hard to fill. She added that she did not envisage this cost being reduced. However, she emphasised that whilst an increase in such permanent staff had led to increased MRS costs there was an overall saving because the cost of the permanent staff, even with MRS payments, was less than the cost of agency staff. Another Member reminded the meeting of the positive impact of the Academy of Central Bedfordshire at which social workers were being trained and developed 'in-house' and how this approach, although medium term in its contribution towards easing the current shortage of social workers, had been adopted to varying degrees elsewhere.

RESOLVED

that the annual update on the current application of market rate supplements to posts across Central Bedfordshire Council be received.

GPC/16/9. **Amendments to the Council's Constitution**

The Committee considered a report which set out proposed changes to the Council's Constitution. The changes, which affected Parts A2, A4, A5, E2, H1, H3, H4, I3 and J3, were set out in a schedule attached at Appendix A to the report. Members were aware that any changes agreed by the Committee would need to be submitted to full Council for approval.

Members noted that the proposed amendments arose from the ongoing review and updating of the Constitution to ensure its accuracy, clarity and fitness for purpose. In undertaking the review consultation had taken place with Directors together with the examination of relevant legislation. In addition, Members had submitted comments and suggestions. The review had also been informed by the consideration of recommendations made by external bodies which had had cause to comment on the Council's processes or governance structures.

With regard to future annual reviews the meeting noted that it was proposed to introduce a more structured and formal process of consultation engaging with all senior officers, elected Members and key stake holders.

The Committee noted the proposed changes to the Procurement Procedure Rules which would need to be implemented to align them with the principles contained in the Constitution should the proposed amendments to Part I3 (Code of Procurement Governance) be approved by Council. The meeting was aware that the Procurement Procedure Rules were maintained by the Procurement Team itself and did not form part of the Constitution. The proposed changes to the Procurement Procedure Rules were set out at Appendix B to the Monitoring Officer's report.

The Monitoring Officer then introduced his report. He explained the background to the updating of the Constitution and how, at least once every 12 months, he undertook a focussed review of the Constitution to pick up any key issues that had emerged.

The meeting noted that the key issues highlighted for consideration in the current annual review had been those relating to the processes followed when considering proposals involving collaborative or joint working or procurement with external bodies such as other local authorities and health bodies. The Monitoring Officer informed the meeting that, with regard to the proposed inclusion of a new paragraph 6 (6.1-6.5) in Part I3 he now also recommended the inclusion of an additional paragraph (paragraph 6.6) to those already listed. The additional paragraph would require any partnership to have a formal mechanism and structure of governance to be set out in a written document.

A second specific area of focus in the review had been that of the provisions relating to Overview and Scrutiny and in particular, the mechanism by which matters were referred for consideration. However, the Monitoring Officer felt that this mechanism should be left unchanged and any matters dealt with through issuing greater clarity and additional advice and guidance to report writers by Democratic Services. Members concurred with this approach.

The Monitoring Officer then responded to Members' queries regarding shared service arrangements. The Monitoring Officer stressed that the proposed new paragraph 6.4 in Part I3 was not a template for such arrangements but a list of guiding principles. At the request of Members he then outlined the operational arrangements in place for LGSS Law Ltd as an illustration of how such organisations could work. In response to a further query he also explained how, in drawing up the proposed changes, he had focused on the recent guidance issued by the Council's external auditor (Ernst & Young LLP) and followed their recommendations closely.

In addition to the above, and although the content of Central Bedfordshire Council's Constitution shared much in common with that of other councils, the Committee was advised that the layout and structure of the document departed from the model version followed by the vast majority of councils. Whilst this did not present any technical problems it was considered that consistency of layout would be beneficial and so authority was sought for the Monitoring Officer to order and format the Constitution in the standard form once the proposed changes to the Constitution had been approved by Council. The reordered Constitution would then be submitted to a suitable meeting of the General Purposes Committee for consideration.

RESOLVED

that no action be taken to amend the provisions relating to Overview and Scrutiny and, in particular, the mechanism by which matters are referred for consideration.

RECOMMENDATION TO COUNCIL

- 1 that Council approve and adopt the changes to the Constitution as set out above and detailed in Appendix A to these minutes;**
- 2 that Council approve the ordering and formatting of the Constitution in the standard form;**
- 3 that Council authorise the Monitoring Officer to implement the changes and take any steps consequential, incidental or necessary to bring them into effect;**
- 4 that Council note the proposed amendments to the Procurement Procedure Rules set out at Appendix B to these minutes.**

GPC/16/10. Member Development Programme

The Committee considered a report which provided a summary of the learning and development events delivered as part of the Member Development Programme. In addition an overview of events planned for the remainder of the Programme was provided.

The Head of Governance first thanked those officers who had organised the events given the difficulties which often arose in their preparation and scheduling. He then introduced the report during which he emphasised how the Programme's sessions had been designed to inform Members about the key themes they would encounter over the four years of the current Council. He also reminded Members that, in addition, other learning opportunities had been offered, including workshops and briefings delivered by officers. Many of the briefings arose from requests by Members for more information on particular subjects.

The Head of Governance stressed the importance of obtaining feedback from Members as a means of contributing towards continuous improvement of the Programme. The meeting noted that, to date, the feedback had been largely positive. The Head of Governance also referred to the proposed monitoring actions set out within the report. Their role was to provide a mechanism through which to establish whether or not the sessions had delivered the intended outcomes.

Turning to the proposed events planned for the four month period until the end of September 2016 the Chairman suggested a course on communications skills to assist members when being filmed. She felt that the inclusion of rehearsals would add to the value of the training. A Member suggested that councillors be provided with training on the wide range of issues faced by the Council and how they were dealt with.

The Head of Governance advised that a second Member survey would be held to inform the Programme and highlight Members' interests. He undertook to include the issues raised by Members at the meeting.

A Member referred to difficulties arising from the timing of some of the sessions; the school holidays being particularly problematic. She also requested that the notes of the events be placed on the intranet so that Members who missed sessions could catch up. In response the Head of Governance stated that the notes of the formal sessions were already available but those for informal sessions were not. He acknowledged that the latter would also be helpful for Members and undertook to examine their inclusion on the intranet.

Another Member commented that she felt that insufficient notification was given of the sessions. She also commented that some officers were good presenters but others lacked the necessary skills.

Finally a Member referred to the need for training on issues which arose quite suddenly and in areas which lay outside the Council's responsibilities but which could, nonetheless, have a 'knock on' impact on the Council.

NOTED

the events and participation in the Member Development Programme from May 2015 to April 2016.

RESOLVED

- 1 that the proposed Member Development Programme events scheduled for the period to the end of September 2016 be approved;**
- 2 that the following actions to monitor whether the sessions have delivered the intended outcomes be approved:**

- a) **Surveying the Chairmen of committees to identify whether they feel the Committee is operating effectively and whether the learning and development sessions have contributed to this.**
- b) **Monitoring the feedback received after the sessions and subsequent engagement from Members requesting further learning/information.**
- c) **Sending a follow-up survey, between 4-6 month after the session, asking for Members' views on whether the learning has been put into practice and the impact it has had on their work.**
- d) **Continuing with the annual survey (initially sent in September 2015) asking Members for their views and suggestions about future learning sessions as part of a continuous improvement policy to ensure the Member Development Programme of events is relevant.**

GPC/16/11. **Revisions to the Terms of Reference for the Wixams Joint Development Control Committee**

The Committee considered a report which set out the recommendation made by the Wixams Joint Development Control Committee (Wixams JDCC) held on 15 March 2016 regarding proposed revisions to the Terms of Reference and Standing Orders relating to that Committee. The report also proposed the inclusion of the Standing Orders of the Joint Committee in the Council's Constitution for ease of reference.

Members were aware that the Wixams JDCC was a body operated as the result of a joint arrangement between Central Bedfordshire Council and Bedford Borough Council.

The report was introduced by the Committee Services Manager who highlighted various points for Members' information. The meeting was aware that the proposed revisions aimed to provide clarity and certainty as to which types of planning application would be considered and determined by the Wixams JDCC and which would be determined through officer delegated powers. The proposed revisions also provided updated guidance which reflected the formation of Central Bedfordshire Council and its location at Chicksands.

In addition to the above the Committee considered a schedule of further amendments to the Terms of Reference which had been submitted by a member of the Committee drawing on his experience as Chairman of the Council's Development Management Committee. To this end he proposed that the Wixams JDCC Terms of Reference be amended to, largely, reflect those of the Development Management Committee. The Member advised that the proposed amendment, which would see the inclusion of Chairman of each Council's Development Management Committee or Planning Committee in the membership, had not been supported by the Borough Council and so it was proposed that the form of words in the schedule submitted by the Member with regard to Standing Order 2 be amended by inserting the word 'normally' between 'shall' and 'be included'. The Borough Council had raised no further objections.

The Member informed the Committee that the last meeting of the Wixams JDCC had not been held in compliance with the current Terms of Reference. However, all decisions had been made unanimously and its decisions were binding.

RECOMMENDATION TO COUNCIL

- 1 that the proposed revisions to Part J2 of the Council’s Constitution, comprising the Terms of Reference of the Wixams Joint Development Control Committee, as reproduced at Appendix C to these minutes, be approved;**
- 2 that the full Standing Orders of the Wixams Joint Development Committee, including the Scheme of Public Participation, be set out in the Council’s Constitution, as shown at Appendix C to these minutes.**

GPC/16/12. **Work Programme**

Members considered a report which set out the Committee’s work programme. Members were aware that there was only one report scheduled for consideration at the next meeting on 25 August though two additional items relating to the Constitution had been identified and these would require scheduling.

The Chairman advised that she would be absent from the August meeting.

NOTED

the report on the General Purposes Committee’s work programme.

(Note: The meeting commenced at 10.00 a.m. and concluded at 11.10 a.m.)

Chairman

Dated

APPENDIX A

Proposed Amendments and Additions

Section 1 - Updates Necessitated due to Legislative Change

Part A2 – Purpose of the Constitution

1.1 The constitution is made under Section ~~9P37~~ of the Local Government Act 2000. The purpose of the constitution is to provide a framework of rules governing the way in which the Council exercises its functions and takes decisions. The Council is required to maintain an up to date constitution.

Part A4 – Citizens and the Council

Suggested new paragraph Part A4 paragraph 3.3 to take account of statutory right to film and record council meetings.

Para 3. Information

Citizens have the right to:-

3.3 film, photograph, record or report on any public meeting in accordance with legislation with the exception of any meeting or part of a meeting which is being held in private because confidential or exempt information is being discussed and an appropriate resolution to that effect has been passed.

[see Openness of Local Government Bodies Regulations 2014]

H1 – Proper Officer

Paragraph 3.1 Table of Proper Officers

12.	S.212A-S.9FB Local Government Act 2000	Scrutiny Officer	Director of Improvement and Corporate Services
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Paragraph 4.4 Table of Proper Officer Appointments

17	The Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000 Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012	Regs 3 and 4 12 and 13	Recording of collective executive decisions	Monitoring Officer
18		Regs 5, 6, 9 and 11 14 and 15	Compilation and availability of background papers, agenda and connected reports in relation to executive decisions	Monitoring Officer
19		Regs 12 and 15 10	Publicity in connection with the forward plan and giving notice etc. in cases of urgency	Monitoring Officer
20		Reg 17 16	Rights of access to documents for councillors	Monitoring Officer

Receipt and recording of Members' interests is now required under Sections 29 and 30 Localism Act 2011 by the Monitoring Officer rather than proper officer under S.96(2) of the Local Government Act 1972 therefore remove row 29 and renumber.

H3 - Delegations

Paragraph 4.7 – Director of Public Health

Further powers and functions contained in the Health and Social Care Act 2012

4.7.4 To exercise such other functions relating to public health as prescribed under the Health and Social Care Act 2012 and as may be prescribed by the Secretary of State, including those functions under the Licensing Act 2003 that are prescribed by the NHS Bodies and Local Authorities (partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012

Section 2 – Fitness of Purpose

Amendment to reporting requirement for MO when exercising delegated authority to amend the constitution.

Part A5 Paragraph 2.3

2.3 The Monitoring Officer shall make urgent amendments to give effect to any decision of the Council or changes in the law, and minor amendments such as to correct errors or to ensure that the constitution is up-to-date. Any such changes will be published on the Council's website on a quarterly basis and report to the next scheduled meeting of GPC.

Clarification of Process for Assessing Shared and Collaborative Arrangements

Part I3 – Code of Procurement Governance

New paragraph 6:

- 6. Processes for the Assessment and Implementation of Shared Service or Collaborative.**
 - 6.1 Inter-municipal collaboration or shared services, is an increasingly prevalent form of service provision within the public sector due to the potential for costs efficiencies to be derived from economies of scale and the relative flexibility they enable in establishing such arrangements. These arrangements are in many cases exempt from the procurement regulatory regime and as such not subject to the formal requirements of tendering etc.*
 - 6.2 However, it is essential that any proposed shared service arrangement is subject to open and rigorous challenge to establish the business case rationale for proceeding with such an arrangement as an alternative to pursuing a standard outsourcing procurement route or retaining in-house provision. The use of shared services is unlikely to be popular with private sector providers who view these arrangements as negatively impacting upon the market for service provision and as such the potential for challenge is a real possibility.*
 - 6.3 The precise design of the selection processes will vary depending upon the nature of the arrangement and it is essential that appropriate professional advice is obtained in relation to the Legal, Procurement and Financial aspects of the arrangement.*

6.4 *In some cases, a competitive selection process may be appropriate but in all cases it is essential that the Council acts in accordance with general public law principles and good governance and the following list is intended as a guide in how to approach the assessment of such proposals.*

- *Ensure that all aspects of the process, including decision making and supporting evidence, are fully documented and available for audit purposes.*
- *Preparation of a business case is an essential element of this type of assessment.*
- *An options analysis should also be completed and signed off by a Director and elected members.*
- *Obtain legal, procurement and finance advice at an early stage in developing any shared service proposal.*
- *Ensure that processes followed in the selection or assessment of any proposal are objectively fair and reasonable.*

6.5 *Following the above general principles should avoid any sustainable challenges being brought and ensure that any decision making as to the appropriateness of any such arrangement is robust and objectively justifiable on the basis of financial and service benefits for the Council and its residents.*

6.6 *Any partnership shall be required to have a formal mechanism and structure of governance set out in a written document.*

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Governance of Partnerships

Part J3 – Partnerships Protocol

Additional wording for Part J3, Paragraph 1.5.3

1.5.3 *Private Sector Partnerships: Private companies, either in their own right or as part of a public sector partnership entering into a contract with the Council for a considerable period.*

1.5.4 *Public Sector Partnerships through jointly owned companies: These arrangements are becoming more common due to the advantages of using a separate legal vehicle as a basis for shared service delivery. Governance arrangements must be established in order that the Council is able to properly monitor the performance of the company and to exercise control and influence through its ownership rights such as share voting rights.*

Scheme of Delegation – Clarification

Part H3 – Scheme of Delegation

Paragraph 4.2.14 - Clarify delegations to Monitoring Officer by listing within a separate paragraph.

Terms of Reference – Committee Delegation

Part E2 – Paragraph 5.1.9

Clarification of extent of delegation to the General Purposes Committee.

*5.1.9 Oversight of the Council's constitution, including approving, **for recommendation on to Full Council**, any changes that may be required on the advice of the Monitoring Officer;*

Update re Statutory Officers

Part H4 – Officer Employment Procedure Rules

Suggested amendments to paragraph 5 to include reference to grievances.

5. Grievances and Disciplinary Action

5.1 Any grievance involving the Head of Paid Service, Monitoring Officer or Chief Finance Officer will be conducted in accordance with the relevant contractual provisions.

*5.12 **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.*

5.23 Councillors will not be involved in any disciplinary action against any officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

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APPENDIX B

Proposed Amendments to the Procurement Procedure Rules

Replacement Section 2.1

2.1 Shared Service and Partnership Working

2.1.1 The way in which councils and other public bodies make arrangements for the provision of services within their remit has changed over the years and continues to change apace. Two key areas of change have been:

- the increasing number and scale of shared or collaborative service provisions between organisations within the public sector and secondly,
- the increasing extent and complexity of partnership working between organisations within the public and not for profit sector.

The Council's Constitution addresses the governance requirements in two sections: Part I3 the Code of Procurement Governance and J3, the Partnerships Protocol.

2.1.2 Shared and collaborative service provisions may in some cases raise questions of procurement law and practice due to the developing legal framework underlying these arrangements, much of which has originated from the European Commission and Court of Justice. As such, this is an area where it is especially important that appropriate legal, procurement and finance advice and guidance is sought as each requirement may be very different. What follows is general advice and guidance.

Processes for the Assessment and Implementation of Shared Service or Partnership Working.

2.1.4 Inter-municipal collaboration or shared services in support of public functions, is an increasingly prevalent form of service provision within the public sector due to the potential for costs efficiencies to be derived from economies of scale and the relative flexibility they enable in establishing such arrangements. These arrangements are in many cases exempt from the procurement regulatory regime and as such not subject to the formal requirements of tendering.

2.1.5 However, it is essential that any proposed shared service arrangement is subject to open and rigorous challenge to establish the business case rationale for proceeding with such an arrangement as an alternative to pursuing a standard outsourcing procurement route or retaining in-house provision. The use of shared services is unlikely to be popular with private sector providers who view these arrangements as negatively

impacting upon the market for service provision and as such the potential for challenge is a real possibility.

2.1.6 The precise design of the selection processes will vary depending upon the nature of the arrangement and it is essential that appropriate professional advice is obtained in relation to the Legal, Procurement and Financial aspects of the arrangement.

2.1.7 In some cases, a competitive selection process may be appropriate but in all cases it is essential that the Council acts in accordance with general public law principles and good governance and the following list is intended as a guide in how to approach the assessment of such proposals.

- Ensure that all aspects of the process, including decision making and supporting evidence, are fully documented and available for audit purposes.
- Preparation of a business case is an essential element of this type of assessment.
- An options analysis should also be completed and signed off by a Director and elected members.
- Obtain legal, procurement and finance advice at an early stage in developing any shared service proposal.
- Ensure that processes followed in the selection or assessment of any proposal are objectively fair and reasonable.

2.1.8 Following the above general principles should avoid any sustainable challenges being brought and ensure that any decision making as to the appropriateness of any such arrangement is robust and objectively justifiable on the basis of financial and service benefits for the Council and its residents.

Appendix C

CONSTITUTION
REVISIONS TO PART J2

<p>Wixams Joint Development Control Committee (With with Bedford Borough Council)</p>	<ol style="list-style-type: none"> 1. To exercise the development control powers and duties of the Bedford Borough and Mid Central Bedfordshire District Councils under the Town and Country Planning legislation in relation to the Wixams (Elstow nNew sSettlement) (the area as defined in the Planning and Development brief) (figure 2) as specified below:- 2. Determination of: - <ol style="list-style-type: none"> 2.1 Outline planning applications for development relating to the settlement. 2.2 Full reserved matter remediation work applications for sites that straddle the boundaries of the constituent Authorities. <p style="margin-left: 20px;"><i><u>*reserved matters relating to the original outline planning permissions (reference CB/11/02182/VOC & 11/01380/M73) comprise any applications for approval of reserved matters for Sub Areas, Strategic Infrastructure Works and Strategic Landscaping Applications.</u></i></p> 3. The heads of terms of any joint legal agreements relating to the proposed development. 4. Any other planning issues applications relating to the development of the settlement as may be referred to the Joint Committee from time to time from either Authority in respect of their own area. 5. All other matters as set out in Standing Order 14 below will be dealt with in accordance with that delegation. 6. Membership: <ul style="list-style-type: none"> • 9 Central Bedfordshire councillors • 9 Bedford Borough councillors • <u>See Standing Orders 2 and 12 below in respect of composition of the Joint Committee and substitutes</u> 7. Full terms of reference are available on request from the Monitoring Officers <u>set out below.</u>
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Appendix C

CONSTITUTION
REVISIONS TO PART J2

<p>Standing Orders of the Wixams Joint Development Control Committee NB: These were not previously included in the Constitution but for the sake of transparency and ease of reference, are proposed for inclusion now and are set out below.</p>	
<p>Standing Order 1 - Meetings</p> <p>Ordinary Meetings</p> <p>i. Ordinary meetings of the Joint Committee will take place on such days, and at such times and frequencies, as the <u>Joint</u> Committee may agree.</p> <p>Special Meetings</p> <p>ii. A special meeting of the Joint Committee may be called at any time by its Co-Chairs.</p> <p>Summons and Agenda</p> <p>iii. A summons and full agenda will be provided to each member of the Joint Committee at least three <u>five</u> clear days before the meeting.</p> <p>Items of Business</p> <p>iv. Only items of business appearing on the agenda will be considered at a meeting, unless an item is deemed by the Co-Chair presiding at the meeting to be urgent.</p> <p>Place of Meeting</p> <p>v. Meetings of the Joint Committee will rotate between Bedford and Chicksands, <u>Shefford</u>.</p>	
<p>Standing Order 2 – Size of Joint Committee</p> <p>The Joint Committee will comprise 18 Councillors, that is 9 representing Bedford Borough Council and 9 representing –Central Bedfordshire Council. <u>The Chairman of each Council's Development Management Committee or Planning Committee shall normally be included in the membership. Up to 4 named substitutes may also be appointed by each authority.</u> Each Council shall appoint its Members to the Joint Committee in accordance with the requirements of Section 15 of the Local Government and Housing Act 1989.</p>	<p>← Formatted: Left</p>
<p>Standing Order 3 – Chairing of Meetings</p> <p>i. The <u>j</u>Joint <u>e</u>Committee shall at the first meeting after its appointment <u>the four-yearly election of its constituent councils</u> elect as Co-Chairs of the <u>Joint</u></p>	<p>← Formatted: Left, Indent: Left: 0 cm</p>

Appendix C

CONSTITUTION
REVISIONS TO PART J2

Committee, one member of each of the constituent authorities, which shall normally be the Chairman of the Development Management Committee and the Planning Committee, respectively-

- ii. Each meeting of the Joint Committee shall be chaired by the Co-Chair of the authority hosting the meeting, save that in the absence from a meeting of any one of the Co-Chairs, the other Co-Chair shall preside.
- iii. In the absence of both Co-Chairs, the Joint Committee shall elect a person from among their number to preside at the meeting.
- iv. The person presiding shall be entitled to a second or casting vote where there is an equality of any votes on the matter.

Standing Order 4 – Quorum

- i. The quorum at a meeting is one quarter of the Joint Committee's membership. If the meeting lacks a quorum at any stage, its business shall be adjourned to an agreed date and time or to the next ordinary meeting.

Standing Order 5 – Decisions and recommendations

- i. Minutes of the proceedings of meetings of the Joint Committee shall be recorded formally and signed at the next meeting by the person presiding.
- ii. No discussions shall take place on the minutes except where their accuracy is challenged by a motion before they are signed.
- iii. The Joint Committee shall have full delegated powers to act within its Terms of Reference. If it wishes to make a recommendation on any matter, this will be placed before the Council of each of the two Local Authorities for a decision.

Standing Order 6 – Rights of non-members of the Joint Committee

- i. Every Member of each of the two constituent councils shall have the right to attend meetings of the Joint Committee. Such a Member will be entitled to speak once on any item and may, with the consent of the person presiding, contribute further, but shall not vote.

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Standing Order 7 – Public participation

- i. Public participation in meetings of the Joint Committee shall operate on the basis of the scheme set out in Appendix A to these Standing Orders.

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Standing Order 8 – Rules of Debate

Motions and Amendments

- i. A motion or amendment may only be discussed if it has been proposed and seconded and, if required by the person presiding, put into writing.

Amendments

- ii. An amendment must be relevant to the motion and shall be either:
 - (a) to leave out words
 - (b) to leave out words and insert or add others
 - (c) to insert or add words.but no amendment may be moved which shall have the same effect as voting against the motion.
- iii. Only one amendment may be moved or discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However the person presiding may permit two or more amendments to be discussed (but not voted on) together if s/he considers that this would be a convenient way to proceed.
- iv. If an amendment is lost then other amendments may be moved upon the original motion. If an amendment is carried, then further amendments may be moved to the revised motion.

Alteration or withdrawal of a motion

- v. With the consent of the person presiding, a Member may alter or withdraw a motions/he has moved.

Right of reply

- vi. The proposer of a motion has a right of reply at the close of the debate on a motion or upon amendment to their motion immediately before either is put to the vote. The mover of an amendment also has a right of reply. Neither reply should exceed one minute in length.

Standing Order 9 – Admission to meetings

- i. Meetings of the Joint Committee shall be open to the public and the press unless the statutory powers of exclusion have been exercised.

Standing Order 10 – Interest of Members in contracts and other matters

Financial interest

- i. If any Member has any financial interest, direct or indirect, within the meaning of Section 95 of the Local Government Act 1972 in any matter, he/she will withdraw from the meeting while the matter is under

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consideration unless:-

- i. The disability to discuss that matter has been removed by the Secretary of State; or
- ii. The Joint Committee invite him or her to remain.

Non-financial interest

- ii. ~~(a)~~ Any Member who has a personal, non-financial interest in any matter must promptly disclose that interest but may remain, speak and vote unless the interest is clear and substantial, in which case the ~~member~~ Member must withdraw (subject to paragraph iii ~~(b)~~ below) ~~of this Standing Order.~~
- iii. Members shall have regard to the provisions of the National Code of Local Government Conduct. Involvement in the affairs of a public body or voluntary association, etc, by a Member who has been appointed as a representative of a constituent ~~c~~Council will not, in the absence of any other relevant constraints, be construed as a clear and substantial interest and in that situation the Member should disclose the interest, but may remain and participate fully in the meeting.

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Standing Order 11 – Voting

- i. All decisions shall be taken by a majority of Members present and voting by show of hands.
- ii. In the case of an equality of votes the person presiding may give a second or casting vote.
- iii. Immediately after a vote is taken, the request of any Member for a record of the way in which his/her vote was cast shall be met and included in the minutes of the meeting.

Standing Order 12 – Changes in membership and substitutes

- i. Any changes in the membership or substitute Mmembers of the Joint Committee shall be notified to the relevant Chief Executive for report to the next meeting of the relevant Council for information. Such notice shall be given to the Chief Executive or his/her nominee prior to the commencement of the meeting of the Joint Committee from which it is likely to have effect.
- ii. Each political group on either authority represented on the Joint Committee shall be entitled to nominate substitute Mmembers, the number of which shall not exceed 50% of the total seats held by that group on the Jjoint eCcommittee with a minimum of one substitute per group.
- iii. Each Independent Member on the Joint Sub-Committee not belonging to a constituted political group within a Council shall be entitled to nominate another Independent Member (who does not belong to a constituted political

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group within the relevant Council) as a substitute member on the Joint Committee.

- iv. A Councillor who wishes a substitute Member to attend a meeting in his/her place shall so inform one of the substitute Members as soon as practicable before the date of the meeting and the substitute Member shall at the meeting concerned inform the relevant Chief Executive or his/her representative of his/her appointment as a substitute. In the event that no named substitute is able to act in that capacity for any given meeting, then any other member of the political group concerned shall be entitled to act as a substitute provided that the relevant Chief Executive or his/her representative is so informed before the commencement of the meeting and that the status of the substitute Member is declared at the start of the meeting.
- v. Any Member for whom a substitute is attending shall cease to be a member of the Joint Committee for the duration of the meeting, including any adjournment, and the substitute Member shall be a full member of the Joint Committee for the same period.

Standing Order 13 – Codes of Conduct

- i. Members shall observe their own Council's code of conduct for councillors dealing with planning matters except that any member of the Joint Committee who expresses a fixed view on an application prior to its determination by the Joint Committee shall be required *either*:
 - (a) To declare an interest in that applications and withdraw ~~form from~~ the meeting during consideration and determination thereof; *or*
 - (b) To appoint a substitute ~~m~~Member for the meeting at which the application is to be considered, in which case the Member who has expressed a fixed view may speak on the application from the public gallery prior to the formal discussion of the item.

Standing Order 14 – Delegations to Officers

~~The existing schemes of delegation to Bedford Borough Council's Borough Planner and to Mid Bedfordshire District Council's Head of Planning Services are deemed to apply in respect of planning applications considered by the joint Committee.~~

Officers of each aAuthority, authorised in accordance with their particular scheme of delegations from the Planning Committee, shall have delegated authority to deal with and determine the following matters:

- a) Applications for planning permission solely within their Council's boundary.
- b) Applications to develop land without compliance with conditions subject to which a previous planning permission was granted (section 73) for all sites (in this Standing Order meaning those within each Authority boundary and those that straddle the boundaries)

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- c) Applications for planning permission for development carried out before the date of the application (section 73A) for all sites
- d) Applications for non-material amendments following a grant of planning permission (Section 96A of the 1990 Act) for all sites.
- e) Applications for Reserved Matters Approval pursuant to any outline planning permission granted previously on sites solely within the ~~a~~Authority boundary.
- f) Applications to approve details pursuant to and discharge conditions attached to any planning permission granted previously for all sites
- g) Applications for replacement planning permission subject to a new time limit on sites solely within the Authority boundary.
- h) In relation to parts 1, 3, 4, 6, 7, 11, 14, 15, 16, 17 and 18 of Schedule 2 of the GPDO 2015 (as amended) (i) approval or agreement required for any element of a proposal or (ii) for determination as to whether or not prior approval or agreement to any element of a proposal is required and, where such prior approval is required by the Council, determination of details of that element for all sites.
- i) Applications for express consent for the display of advertisements and related powers and duties for all sites.

All other relevant parts of the schemes of delegation to authorised officers of Bedford Borough Council and Central Bedfordshire Council are deemed to apply in respect of planning applications considered by the Joint Committee.

Appendix A –

Wixam’s Joint Development Control Committee Scheme for Public Participation

Applicants, agents, representatives of Parish/Town Councils, members of Bedford Borough Council and Central Bedfordshire Council (in respect of any application falling within their ward) and members of the public, who have already submitted comments in writing prior to the publication of the agenda, are entitled to speak (but not to question ~~o~~Officers or ~~m~~Members of the constituent councils) during the consideration of a planning application at any meeting of the Joint Committee at which the application is to be determined. Such entitlement to speak shall be in accordance with the following provisions:

- (a) Any person meeting the above qualification who wishes to speak must notify the nominated officer of their ~~l~~Local ~~A~~authority by telephone or e-mail by ~~10.00am on the day of~~close of business on the day before the meeting at which the application in which s/he is interested is to be considered.
- (b) The following procedures will apply in respect of each item:
 - Introduction of an item by officers and or the Co-Chair

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	<ul style="list-style-type: none"> • Representations by Parish/Town Council representative(s)
	<ul style="list-style-type: none"> • <u>Representations by objector(s) or representative for all objectors</u>
	<ul style="list-style-type: none"> • <u>Representations by applicant and/or any supporters</u>
	<ul style="list-style-type: none"> • <u>Representations by a councillor with a personal and prejudicial interest</u>
	<ul style="list-style-type: none"> • <u>Opportunity for officers to comment/clarify</u>
	<ul style="list-style-type: none"> • <u>Representations by Ward Members</u>
	<ul style="list-style-type: none"> • Representations by non-Members of the Joint Committee in respect of any applications falling within their electoral ward
	<ul style="list-style-type: none"> • Joint Committee Members' questions
	<ul style="list-style-type: none"> • Representations by objector/s or the representative for all objectors
	<ul style="list-style-type: none"> • Joint Committee Members' questions
	<ul style="list-style-type: none"> • Representations by applicant and/or any supporters
	<ul style="list-style-type: none"> • Joint Committee Members' questions
	<ul style="list-style-type: none"> • Clarification by Officers, if required
	<ul style="list-style-type: none"> • <u>Any other councillor (not being a member of the Joint Committee) may also be permitted to speak on an item-</u>
	<ul style="list-style-type: none"> • Consideration of the application by the Joint Committee-
<u>NOTE:</u>	
<u>1.</u>	<u>In view of the limited time available to each speaker, persons wishing to make representations will not be permitted to make formal presentations using visual display equipment.</u>
<u>2.</u>	<u>Any information to be considered by the Joint Committee should be presented to officers by midday 3 working days prior to the meeting to allow for information to be considered. No new information may be presented at the meeting.</u>

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(c)	The total time allowed for speeches in respect of each of the following groups of speakers will not exceed 5 minutes:-	
	i.	Parish/Town Council representatives for each Parish/Town Council that may have been consulted on an application who have been authorised, in writing, to speak, by the Clerk or Chairman of the Town/Parish Council on the Council's behalf;
	ii.	Ward representatives from either Council not on the Joint Committee
	iii.	Objectors
	iv.	Applicants and/or supporters.
	Where an application affects more than one Town/Parish Council or ward, the Co-Chair has the discretion to vary the requirements of (i) to (iv) above, where s/he considers it conducive to the dispatch of business and will not cause prejudice to the parties involved.	
(d)	In the event of there being no spokesperson appointed to speak on behalf of a group of speakers referred to under either category (iii) and (iv) or provision (c) above, the order of speaking shall be the same as the order in which the requests were received until the time limit has expired.	
(e)	Anyone making representations under this scheme shall confide ne their comments to material planning considerations and should draw any believed inaccuracies in reports etc to the attention of the officers prior to the meeting.	
(f)	Where consideration of a planning application is deferred, public participation shall be permitted on each occasion that such an application is reconsidered provided that the notice requirements in (a) above have been complied with.	
(g)	The Co-Chair of the Joint Committee may:	
	(a) suspend the operation of this scheme during the consideration of any application or for the remainder of the meeting if s/he considers it necessary to do so for the purposes of maintaining order at the meeting;	
	(b) vary the order in which applications are to be considered if s/he considers that it is convenient and conducive to the despatch of the business and will not cause any prejudice to the parties involved.	
(h)	This scheme does not provide a right for Members or Officers of either constituent council to speak where they have declared an interest in the planning application.	
(i)	For interpretation purposes, Parish/Town Council shall be taken to include a Parish meeting.	

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(j)	The Co-Chair has the right to require any person to stop speaking at any time s/he considers the question or statement to be defamatory, improper or outside the responsibilities of the Joint Committee.
(k)	The Co-Chair may vary or suspend the operation of this scheme at any time during the meeting, if s/he considers:-
	(a) that it is necessary to do so for the purpose of maintaining order at the meeting; or (b) that it is convenient and conducive to the despatch of business so to do.

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

27 October 2016

THE 2018 REVIEW OF PARLIAMENTARY CONSTITUENCIES

Report of Charles Warboys, Chief Financial Officer.
(charles.warboys@centralbedfordshire.gov.uk)

Lead Officer: Brian Dunleavy, Democratic Services Manager.
(brian.dunleavy@centralbedfordshire.gov.uk)

Purpose of this report

This report sets out the initial proposals by the Boundary Committee for England on the current review of the Parliamentary constituencies for England

RECOMMENDATIONS

The Committee is asked to:

1. Note the initial proposals for the new Parliamentary constituency boundaries in England; and
2. Consider whether to accept the initial proposals or to formulate a revised scheme for the constituencies contained within the Central Bedfordshire Council area as part of the consultation process.

Background

1. The Boundary Commission for England (BCE) is an independent and impartial non-departmental public body which is responsible for reviewing Parliamentary constituency boundaries in England.
2. The BCE has the task of periodically reviewing all of the Parliamentary constituencies in England. It is currently conducting a review on the basis of the rules set by Parliament in 2011. The new rules result in a significant reduction in the number of constituencies in England (from 533 to 501), and require that every constituency, apart from two specified exceptions, must have an electorate that is no smaller than 71,031 and no larger than 78,507.
3. The BCE is required to make a formal report to the Government in September 2018; recommending any changes that it believes are

appropriate to the distribution, size, shape, name or designation of constituencies in England.

4. The government will turn the recommendations of the BCE into draft legislation, which is then presented to Parliament. If Parliament approves the legislation, the recommended changes will be implemented at the next General Election scheduled for 2020. Any by-elections held in the meantime will have to be held on the basis of the old (existing) constituencies.

Timetable for the review

5. The review will take place over two and a half years to ensure that the recommendations made are thorough and take public views into account. The timetable for the review is:
 - 13 September 2016 Initial proposals published
 - 13 September to 5 December 2016 Initial consultation period
 - 7 & 8 November 2016 Eastern Region Public Hearing (Luton Borough Council)
 - Spring 2017 Secondary consultation period (publication of all responses received to the initial proposals). During the four week secondary consultation period further representations can be made but only on the responses to the initial proposals
 - Towards the end of 2017 If the evidence presented at the secondary consultation period warrants revised proposals for the area concerned a further consultation of 8 weeks will be introduced

The base data for the Review

6. The Parliamentary Constituencies Act 1986 (as amended) 'the Act' provides that the electorate figures that are to be used for a review are those that were in the version of the electoral register published on the 'review date'. This is defined by the Act as the date two years and ten months before the review is required to report to the Government. For the 2018 Review, this means that the electorate figures used must be those from the electoral registers that were required to be published on or before 1 December 2015.

The distribution of constituencies

7. The Act now requires there to be a fixed number of 600 constituencies for the whole of the UK. Having stated that no single constituency may be split between different parts of the UK, the Act provides a mathematical formula to determine how many constituencies each of the four parts of the UK should be allocated, based on the electorate figures as at the review date. The number of constituencies allocated to England for the 2018 Review is 501. Two of these constituencies are expressly reserved for the Isle of Wight.
8. The Eastern Region has been allocated 57 constituencies, a reduction of one. The proposals for Bedfordshire are contained in Appendix A
9. The impact of the proposals of the revised constituencies within Central Bedfordshire Council area is shown at Appendix B together with a map at Appendix C which identifies each ward and its potential constituency.

Council Priorities

10. Not applicable

Legal Implications

11. The process described in the report is prescribed in the Parliamentary Constituencies Act 1986 (as amended by the Boundary Commissions Act 1992 and the Parliamentary Voting Systems and Constituencies Act 2011). The Boundary Commission is required to review the parliamentary constituencies in accordance with the provisions of the Act and to submit a report to the Government in September 2018. Central Bedfordshire Council has no formal role in the statutory process.

Financial and Risk Implications

12. None specifically arising from this report but there are significant costs in administering an election; some of which are outwith the control of the Acting Returning Officer specifically when local elections are combined with national elections.

Equalities Implications

13. None specifically arising from the report as the review and the subsequent proposals are those of an external body. However, achieving a more even distribution of electoral representation in every constituency in England will provide an opportunity for fairer political representation.

Conclusion

14. The effects of the proposals for Central Bedfordshire are that the electorate would be served by 5 MP's instead of the current 4. However, the anomalies that currently exist whereby the wards of Arlesey, Northill and Caddington are served by two different MP's have been removed.
15. The BCE actively promotes participation in the consultation process and welcomes written or oral representations made at public hearings for against the proposals.

Appendices

Appendix A – extract from the BCE 'Initial proposals for new Parliamentary constituency boundaries in the Eastern Region'

Appendix B – Parliamentary Constituencies – Initial Proposals: Impact on Central Bedfordshire

Appendix C – Central Bedfordshire Ward and Parish Boundaries (Map)

Background Papers

None

3 Initial proposals for the Eastern region

18 The Eastern region comprises the counties of Bedfordshire, Cambridgeshire, Hertfordshire, Essex, Norfolk and Suffolk. These counties are covered by a mixture of district councils, county councils and unitary authorities.

19 The region currently has 58 constituencies. In this review the region has been allocated 57 constituencies, a reduction of one. Of the 58 existing constituencies only 20 have electorates within 5% of the electoral quota (within the range of 71,031 to 78,507 registered electors). In addition, the electorates of 27 constituencies currently fall below the lower 5% limit, while the electorates of 11 constituencies fall above the upper limit.

20 In seeking to produce initial proposals for the region whereby 57 whole constituencies would have an electorate within 5% of the electoral quota, we first considered whether local authority areas could usefully be grouped into sub-regions. Our approach when grouping local authority areas together in sub-regions was based on trying to respect county boundaries wherever possible and on achieving (where we could) obvious practical groupings such as those dictated in some part by the geography of an area.

21 Nevertheless, our division of the Eastern region into sub-regions is a purely practical approach. Respondents to our consultation are welcome to make counter-proposals based on other groupings of counties and unitary authorities, if the statutory factors can be better reflected in those counter-proposals.

22 When thinking about sub-regional groupings for the Eastern region we noted that the county of Cambridgeshire

(which includes the unitary authority of Peterborough) has an allocation of 7.4 constituencies based on an electorate of 554,887. With an allocation of seven whole constituencies, Cambridgeshire's constituencies have an average electorate size of 79,270. The size of electorates in these constituencies makes it impossible to allocate to Cambridgeshire seven constituencies that fall within 5% of the electoral quota. Therefore Cambridgeshire needs to be grouped with a neighbouring county. We noted that Norfolk has an electorate of 645,761, which gives an allocation of 8.6 constituencies. The latter allocation translates into an average constituency size of 71,751 when Norfolk is allocated nine whole constituencies – just 720 electors above the lower limit of the 5% target. The size of these electorates in Norfolk makes it clear that it would be extremely hard to build nine constituencies within the county that are also within 5% of the electoral quota. We therefore decided to group Norfolk and Cambridgeshire into a sub-region, so that we could propose constituencies within 5% of the electoral quota.

23 We also noted that Hertfordshire has an electorate of 801,230, which gives an allocation of 10.7 constituencies. An allocation of 11 whole constituencies to Hertfordshire gives an average constituency size of 72,839. Electorates of this size in Hertfordshire could allow us to build 11 constituencies within 5% of the electoral quota. But given the dense pattern of settlements in some parts of the county, which make it challenging not to divide towns between constituencies, we decided that we could have better regard for the statutory factors if Hertfordshire were included in a sub-region with another county or counties.

24 We noted that Essex and Bedfordshire both have electorates that come close or very close to allowing a whole number of constituencies to be allocated (see below). Given this fact we decided that there would be no practical benefit gained from including either of these counties in a sub-region with Hertfordshire. We thus propose to group Hertfordshire with Cambridgeshire and Norfolk in a single sub-region. This arrangement allows us to build a limited number of constituencies that cross county boundaries, and hence create 27 constituencies within 5% of the electoral quota, while also having regard to other statutory factors.

25 The ceremonial county of Bedfordshire (comprising the unitary authorities of Luton, Central Bedfordshire and Bedford) has an electorate of 439,574, which gives an allocation of 5.9 constituencies. With our proposed allocation of six whole constituencies, the average size of constituencies in Bedfordshire is 73,262. Although this is lower than the electoral quota of 74,769, it is not low enough to indicate to us that problems would be encountered when building six constituencies within the county's boundary. Hence we propose to create six constituencies within the county.

Initial proposals for the Bedfordshire sub-region

45 Of the existing six constituencies in the ceremonial county of Bedfordshire, only one is within 5% of the electoral quota – the constituency of South West Bedfordshire. Of the remaining five constituencies, two are above the upper 5% limit (Mid Bedfordshire and North East Bedfordshire). The remaining three constituencies (Bedford, Luton North and Luton South) all have electorates below the lower 5% limit.

46 We considered first how we could keep South West Bedfordshire unchanged but found this was not feasible given the changes needed to surrounding constituencies in order to bring them within 5% of the electoral quota.

47 The existing constituency of North East Bedfordshire has an electorate of 83,599. In order to bring it within 5% of the electoral quota we propose to transfer the Borough of Bedford ward of Eastcotts to the Mid Bedfordshire constituency. This change and local government ward boundary changes (to the Borough of

Bedford wards of Eastcotts, Kempston Rural, Clapham, and Great Barford; and to the Central Bedfordshire Council wards of Arlesey, and Northill) bring the North East Bedfordshire constituency within 5% of the electoral quota.

48 In order to bring the Mid Bedfordshire constituency within 5% of the electoral quota we propose to transfer the wards of Aspley and Woburn, Toddington, and Barton-le-Clay (all Central Bedfordshire Council wards) into South West Bedfordshire. The existing South West Bedfordshire constituency has 76,959 electors so the addition of these wards pushes it above the upper 5% limit. Local government boundary changes to the Central Bedfordshire Council ward of Caddington have partially mitigated this consequence, by transferring some electors from South West Bedfordshire into the Luton South constituency. But, in addition, we propose to transfer the Central Bedfordshire Council wards of Tithe Farm, Parkside, and Houghton Hall from South West Bedfordshire into our proposed Luton North and Houghton constituency. These wards comprise the town of Houghton Regis, the whole of which we propose be included in Luton North and Houghton.

49 Local government boundary changes to the Elstow and Stewartby ward, the Goldington ward and the Kempston Rural ward are enough to bring our proposed Bedford constituency within 5% of the electoral quota.

50 We propose to include in Luton South the ward of Barnfield (Borough of Luton), from the existing Luton North constituency, resulting in both the Luton South and Luton

North constituencies being brought within 5% of the electoral quota.

51 As a result of the changes we propose in Luton and its surrounding area, all of the Central Bedfordshire Council wards that comprise the town of Dunstable are included in our proposed South West Bedfordshire constituency.

PARLIAMENTARY CONSTITUENCIES – INITIAL PROPOSALS

Impact on Central Bedfordshire Wards

Constituency	Local Authority	Wards	2015 Electorate	Parishes
Mid Bedfordshire (71365)	CBC	<ul style="list-style-type: none"> • Ampthill 	9699	<ul style="list-style-type: none"> • Ampthill, Maulden, Clophill
		<ul style="list-style-type: none"> • Arlesey 	11121	<ul style="list-style-type: none"> • Arlesey, Clifton, Henlow Village, Henlow Camp, Stondon
		<ul style="list-style-type: none"> • Cranfield & Marston Moretaine 	8947	<ul style="list-style-type: none"> • Cranfield, Marston Moretaine, Hulcote & Salford, Lidlington. Brogborough, Ridgmont, Millbrook
		<ul style="list-style-type: none"> • Flitwick 	10075	<ul style="list-style-type: none"> • Flitwick, Steppingley
		<ul style="list-style-type: none"> • Houghton Conquest & Haynes 	2198	<ul style="list-style-type: none"> • Houghton Conquest, Haynes
		<ul style="list-style-type: none"> • Shefford 	7211	<ul style="list-style-type: none"> • Shefford, Campton & Chicksands, Meppershall
		<ul style="list-style-type: none"> • Silsoe & Shillington 	4074	<ul style="list-style-type: none"> • Silsoe, Shillington, Gravenhurst
		<ul style="list-style-type: none"> • Westoning, Flitton & Greenfield 	3724	<ul style="list-style-type: none"> • Westoning, Flitton & Greenfield, Pulloxhill, Tingrith
		Bedford BC	<ul style="list-style-type: none"> • Eastcotts • Kempton Rural • Wilshampstead • Wooton 	2639 4382 3476 3819

APPENDIX B

Constituency	Local Authority	Local Authority	2015 Electorate	Parishes
South West Bedfordshire (77673)	CBC	<ul style="list-style-type: none"> Aspley & Woburn 	3681	<ul style="list-style-type: none"> Aspley Guise, Aspley Heath, Husborne Crawley, Woburn, Eversholt, Potsgrove, Milton Bryan, Battlesden
		<ul style="list-style-type: none"> Barton-le-Clay 	3974	<ul style="list-style-type: none"> Barton-le-Clay
		<ul style="list-style-type: none"> Dunstable (Central) 	3332	<ul style="list-style-type: none"> Dunstable TC (Central Ward)
		<ul style="list-style-type: none"> Dunstable (Icknield) 	5732	<ul style="list-style-type: none"> Dunstable TC (Icknield Ward)
		<ul style="list-style-type: none"> Dunstable (Manshead) 	3575	<ul style="list-style-type: none"> Dunstable TC (Manshead Ward)
		<ul style="list-style-type: none"> Dunstable (Northfields) 	6528	<ul style="list-style-type: none"> Dunstable TC (Northfields Ward)
		<ul style="list-style-type: none"> Dunstable (Watling) 	7402	<ul style="list-style-type: none"> Dunstable TC (Watling Ward)
		<ul style="list-style-type: none"> Eaton Bray 	3292	<ul style="list-style-type: none"> Eaton Bray, Totternhoe, Billington
		<ul style="list-style-type: none"> Heath & Reach 	3426	<ul style="list-style-type: none"> Heath & Reach, Hockliffe, Eggington, Chalgrave, Stanbridge, Tilsworth
		<ul style="list-style-type: none"> Leighton Buzzard (North) 	10881	<ul style="list-style-type: none"> LLTC: (Plantation, St George's, Planets Wards)
		<ul style="list-style-type: none"> Leighton Buzzard (South) 	9303	<ul style="list-style-type: none"> LLTC: (Leston, Brooklands, Grovebury Wards)
		<ul style="list-style-type: none"> Linslade 	9108	<ul style="list-style-type: none"> LLTC: (Southcott, Barnabas Wards)
		<ul style="list-style-type: none"> Toddington 	7440	<ul style="list-style-type: none"> Toddington, Harlington, Streatley, Sundon, Chalton

APPENDIX B

Constituency	Local Authority	Local Authority	2015 Electorate	Parishes
North East Bedfordshire (74198)	CBC	• Biggleswade North	5709	• Biggleswade TC (Ivel Ward)
		• Biggleswade South	7883	• Biggleswade TC (Holme, Stratton Wards),
		• Northill	3453	• Northill, Moggerhanger, Old Warden, Southill
		• Potton	6150	• Potton, Everton, Sutton, Wrestlingworth & Cockayne Hatley Eyeworth, Dunton, Edworth, Tempsford
		• Sandy	9582	• Sandy, Blunham
		• Stotfold & Langford	10796	• Stotfold, Langford, Fairfield, Astwick
	Bedford BC	• Bromham & Biddenham	5805	
		• Clapham	3364	
		• Great Barford	6173	
		• Harrold	3214	
		• Oakley	2987	
		• Riseley	2789	
		• Sharnbrook	3245	
		• Wyboston	3048	

APPENDIX B

Constituency	Local Authority	Wards	2015 Electorate	Parishes
Luton North & Houghton (71188)	CBC	• Houghton Hall	5717	• Houghton Regis TC (Houghton Hall Ward)
		• Parkside	3220	• Houghton Regis TC (Parkside Ward)
		• Tithe Farm	2994	• Houghton Regis TC (Tithe Farm Ward)
	Luton BC	• Bramingham	5366	
		• Challney	8227	
		• Icknield	5614	
		• Leagrave	7492	
		• Lewsey	8207	
		• Limbury	5530	
		• Northwell	4966	
		• Saints	8501	
		• Sundon Park	5354	

APPENDIX B

Constituency	Local Authority	Wards	2015 Electorate	Constituency
Luton South (71,881)	CBC	<ul style="list-style-type: none"> Caddington 	7267	<ul style="list-style-type: none"> Caddington, Slip End, Kensworth, Studham, Hyde, Whipsnade
	Luton BC	<ul style="list-style-type: none"> Barnfield 	5295	
		<ul style="list-style-type: none"> Biscot 	8351	
		<ul style="list-style-type: none"> Crawley 	4696	
		<ul style="list-style-type: none"> Dallow 	8243	
		<ul style="list-style-type: none"> Farley 	6839	
		<ul style="list-style-type: none"> High Town 	4206	
		<ul style="list-style-type: none"> Round Green 	7566	
		<ul style="list-style-type: none"> South 	6139	
		<ul style="list-style-type: none"> Stopsley 	5294	
		<ul style="list-style-type: none"> Wigmore 	7985	

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Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

27 October 2016

REPORT ON THE ARRANGEMENTS FOR ETHICAL STANDARDS

Advising Officer: Quentin Baker, Monitoring Officer and Director LGSS Law Ltd

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Contact Officer: Maria Damigos, Corporate Lawyer, LGSS Law Ltd

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Purpose of this report

1. To provide the Committee with a summary of the Council's ethical governance and arrangements since March 2016.

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 8 months since March 2016;
2. Approve the proposal to reduce the membership of the panel of independent persons;
3. Approve the publication of the outcome of decisions made under the Councillor Code of Conduct and to authorise the Monitoring Officer, in consultation with the Chair of the General Purposes Committee, to make any incidental changes to the Constitution to give effect to such approval.

Overview and Scrutiny Comments/Recommendations

2. This Report is an update on ethical standards to General Purposes Committee. No decision by the Executive or Council for the Standards update is required. The further extension of the Panel of Independent Persons will be referred to Council.

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.
4. The General Purposes Committee has responsibility for exercising the Council's functions under Chapter 7 of the Localism Act 2011 relating to ethical standards.

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. They are also responsible for updating their register within 28 days of any change. Failure to disclose a pecuniary interest is a potential criminal offence.
9. Under the principle of honesty holders of public office have a duty to declare any private interests relating to their public duties and this is an ongoing obligation during a Member's term of office.

10. All Council members have disclosed their pecuniary interests.
11. On 19 September Committee Services introduced an on line facility for amending the Register of Member's Interests. Since then there have been approx. 3 amendments which have been notified.
12. 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.
13. The up to date figures for notification of Town and Parish Councillors interests was not available at the time of writing this report but will be attached as Appendix C. Queries relating to Town and Parish Council forms are continuing to be resolved and both LGSS Law Ltd and Committee Services continue to chase outstanding forms.

Independent Persons

14. 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.
15. 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.
16. This arrangement worked 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.
17. The appointment of the then 7 Independent Persons expired in September. The appointments were extended by Central Bedfordshire

Council for 6 months to allow further discussions with the other Authorities.

18. Each of the Authorities sharing the Independent Persons dealt with their appointments separately. Bedfordshire and Luton Fire Authority, recruited independently with Bedford Borough Council and therefore the number of Authorities sharing the Independent Persons appointed by Central Bedfordshire Council has reduced to 4: Central Bedfordshire Council, Luton Borough Council, Milton Keynes Council and Buckinghamshire and Milton Keynes Fire Authority.
19. After reviewing the current and historic level of complaints and the use of the Independent Persons it is considered that a panel of 4 Independent Persons is sufficient for the Council's purposes and will also reduce the overall costs of the Independent Persons. It is therefore proposed to request Council to extend the appointment of 4 of the Independent Persons until 2020. This proposal will be taken to Council prior to March 2017.

Complaints

20. A copy of the procedure that the Council has adopted for handling complaints is attached as Appendix A.
21. The procedure provides that where the conduct complained of comes under the Code of Conduct, there will be 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 what, if any, further action to take. This includes formal investigation which could lead to a Standards Sub-Committee hearing to determine the facts and, if appropriate, sanction the Member. At any point the Monitoring Officer can ask for a review of the complaint by the Standards Sub-Committee. Current resources to administer this work are the Monitoring Officer's time with support from the Corporate Lawyer (currently 1FTE). During the past 8 months no cases have been formally investigated.
22. For the period March 2016 to September 2016 the Monitoring Officer has received 6 complaints (there were 14 in the same period last year) with no complaints being carried over from February 2016 making a total of 6 complaints being dealt with in the period. The complaints received are spread across 4 T&PCs and Central Bedfordshire Council. In this 6 month period 2 of the complaints received were against CBC councillors. As at the end of September 2016 two complaints, were open. As at the time of writing this report one complaint remained open.
23. Appendix B shows the cumulative totals of complaints received since June 2012.

24. Currently the Council does not make any details about complaints against its Members public.
25. It is considered sensible and appropriate to publish the outcome of decisions as this would be in line with Nolan Committee principles, show greater transparency, demonstrate that the Council takes complaints seriously and provide reassurance that there is a robust procedure to deal with such complaints. In addition, in view of the public nature of Members duties and responsibilities information about complaints against Members will generally be discloseable under the Freedom of Information Act 2000 in any event.
26. It is therefore proposed that the Council moves to publish the outcome of decisions made under the Councillor Code of Conduct and updates the appropriate procedures accordingly.

Training

27. 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.
28. T&PCs are also still being encouraged to deal with more minor matters at a local level and guidance on ethical matters continues to be provided to both Councillors and Clerks.
29. Guidance on social media has recently been made available to Members. Although no interest in further briefings on social media was received, there have been some complaints within the last year relating to social media and an Independent Person has suggested training in this area. A further invitation for expressions of interest will therefore be made.

Arrangements for the Future

30. The Monitoring Officer retains statutory responsibility for dealing with Code of Conduct complaints. LGSS Law Ltd is now dealing with the day to day work relating to Code of Conduct and ethics issues. There has been no change noted in the level of contact by T&PC's and work to encourage best practice, facilitating training and development opportunities and guidance for all Councillors and Clerks will continue.
31. Monitoring and statistics for Code of Conduct complaints will continue to be provided.
32. 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

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

Corporate Implications

Risk Management

34. 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)

35. 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

36. 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

37. 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

38. 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

39. Although the number and types of complaints cannot be predicted, the figures show that the number of complaints being dealt with has reduced compared to the same period last year and the turnover of complaints is much quicker.

Appendices

- 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
- Appendix C – Figures for notification of Members Interests – to follow

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**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. 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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Appendix B

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	0	1

April 16	0	1	0
May 16	1	0	1
June 16	1	1	1
July 16	0	1	0
August 16	2	1	1
September 16	1	0	2

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

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE 27 October 2016

Review of Policy and Procedure under the Regulation of Investigatory Powers Act 2000

Advising Officer: Quentin Baker, Senior Responsible Officer and Director of LGSS Law Ltd

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Contact Officer: Maria Damigos, Corporate Lawyer LGSS Law Ltd

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Purpose of this report

To update the Committee on the review of the Policy and procedures under the Regulation of Investigatory Powers Act 2000 (RIPA) following an inspection by the Office of Surveillance Commissioners at the end of April 2016.

RECOMMENDATIONS

The Committee is asked to:

1. Consider and comment on the updated Policy and Procedure Guide on the use of covert surveillance and covert human intelligence sources.
2. Note and endorse the appointment of 3 Authorising Officers by the Senior Responsible Officer.
3. Agree an annual review of the Council's Policy and Procedure Guide to ensure it remains fit for purpose, and to receive an update of the Council's use of RIPA and its compliance to the date of the review

Introduction

1. As part of its statutory functions it is sometimes necessary for the Council to carry out covert surveillance. This is normally in the area of enforcement such as trading standards or in relation to other suspected criminal activity such as benefit fraud.
2. As surveillance may infringe the rights of individuals, it must be carried out in accordance with RIPA and the procedure within the Council's

Policy and Procedure Guide in order to ensure it is reasonable and proportionate and does not breach other legislation such as the Data Protection Act 1998 or the Human Rights Act 1998.

3. The Office of Surveillance Commissioners carries out regular inspections of public bodies that have powers under RIPA to provide independent oversight of their use of RIPA and to ensure policies, procedures and any surveillance carried out complies with legislation.

The Process

4. Within the Policy and Procedure Guide there are details of exactly what the process is. In summary, in order to carry out surveillance, an Investigation Officer must provide a report to an Authorising Officer (AO) who must approve the surveillance. The surveillance must be proportionate and necessary under RIPA and there may be other considerations under legislation to take account of to ensure it is also reasonable and in the public interest. In addition, a Local Authority can only carry out covert surveillance if it relates to preventing or detecting serious criminal behaviour which would carry a custodial sentence of at least 6 months or relates to offences for the sale of alcohol and tobacco to children.
5. The AO will then complete the relevant paperwork and send it to the Monitoring Officer who will arrange for it to be checked and approved.
6. An application will then be made to the Magistrates Court who will either allow the surveillance or will reject the application.

Inspection of Central Bedfordshire Council/Improvement Plan

7. As a result of an inspection by the Office of Surveillance Commissioners on 26 April 2016 a number of recommendations were made and an improvement plan was produced by LGSS which included, amongst other things, a review of the Council's RIPA Policy and procedures. These were mainly to simplify the Policy and to increase the number of AOs to create more resilience. The following activities were identified within the improvement plan to give effect to the recommendations:

- Review, update and simplify the RIPA Policy
- Appoint extra AO's
- Provide training for the new AO's and provide refresher training for current AO's
- Awareness training for all Council staff
- Create webpage on Intranet for training, FAQs and to publish the new Guide and relevant forms and Office of Surveillance Commissioners Codes of Practice

Current Position

8. The Policy had been amended to make it more user friendly and understandable. A copy of the Policy and Procedure Guide is attached at Appendix A. The changes to the Policy are detailed below and include recommendations by the Inspector:
 - Emphasise the requirements (i.e. “shall” or “must” instead of “should”)
 - Include links within the Policy for ease of navigation
 - Setting out the role and responsibilities of the SRO
 - Detailing the Authorising Officers and their roles
 - Making the legal role of checking as well as record keeping clear
 - Giving background of Office of Surveillance Commissioner and linking to website
 - Updating in respect of recent guidance for social media and urgent provisions
9. An AO must be competent and of an appropriate seniority within the Council. In order to ensure impartiality they should not be connected with the investigation. There are currently 2 AO’s appointed for the Council: Richard Carr and Su Childerhouse. In order to ensure resilience and impartiality it is proposed to appoint 3 further AOs making a total of 5 AOs for the Council.
10. There is no statutory process for the appointment of AO’s however the Council’s Constitution provides that the Monitoring Officer will add to or amend the list of Authorising Officers and accordingly after consultation with other officers of the Council, the Monitoring Officer has selected and designated 3 further AO’s who are identified within the Guide at Appendix A .
11. Training for the new AOs has also been identified and will take place on 4 November 2016. The training will also be attended by some managers of investigating officers, the SRO and legal advisors to ensure a breadth of knowledge.
12. General awareness training across the Council, preferably via an online tool, is currently being researched. This training is important as it will assist all Council officers to recognise when RIPA procedures should be invoked. This will be rolled out once identified.
13. The webpage on the Intranet is to be created. This is to be user friendly and aimed at both AOs and investigating officers plus any other officer who is potentially looking at taking action that may trigger RIPA. It will include easily accessible documents, including the Policy, details of the procedures and a list of frequently asked questions as well as clear contact details for who to speak to for advice. Once the webpage is created, links within the Guide will be inserted into the Guide.

14. The Office of Surveillance Commissioners is satisfied with the improvements to be made and the Inspector has scheduled his next inspection in 12 months.

Annual Report

15. It is considered best practice in the Home Office's Code of Practice for Covert Surveillance and Property Interference for Local Authorities to have an ongoing review by their Members of both an organisation's Policy and compliance with the Policy. It is accordingly proposed that an annual report to General Purposes Committee is implemented to allow a general oversight of RIPA by Members and ensure compliance with the Code of Practice as well as transparency.

Council Priorities

16. The Policy and effective and compliant use of RIPA supports all of the Council's priorities through reducing fraud or other criminal activity either as part of the Council's regulatory activities or to ensure proper use of resources and services.

Corporate Implications

Risk Management

17. It is important that the Council has in place an effective legal procedure for carrying out surveillance within the framework of RIPA. The risk to the Council of a failure in this area is the failure to obtain a conviction with attendant costs and reputational damage and/or the incorrect and potentially illegal expenditure of resources on or with services users who are not entitled to such services.

Staffing (including Trades Unions)

18. There are no specific staffing issues arising from this report apart from those already mentioned.

Legal Implications

19. All organisations have a duty to comply with RIPA. Failure to do so may render any surveillance information inadmissible in Court or leave any decisions made open to legal challenge. Non-compliance with RIPA may also mean that there is a breach of the Human Rights Act 1998 or the Data Protection Act 1998.
20. The new Guide, training and publication should raise awareness and ensure that those who regularly use RIPA or any that may need to use RIPA can be well versed in procedures and know what to do. This should ensure the Council continues to comply with RIPA and minimise the risks.

Financial Implications

21. There are no direct financial implications arising from this report save as already detailed.

Equalities Implications

22. 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 will form part of the tests carried out within the RIPA procedures.

Conclusion and next Steps

23. The committee is asked to comment on the Policy & Procedure Guide, agree an annual report and note the appointment of the AO's.

Appendices

Appendix A is the RIPA Policy and Procedure Guide

Background Papers

There were no background papers taken into account save as already mentioned. The Home Office Codes are available via the following link:
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

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APPENDIX A

The Regulation of Investigatory Powers Act 2000 (RIPA)

A POLICY & PROCEDURE GUIDE On the use of covert surveillance and covert human intelligence sources

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PART I

THE GUIDE TO RIPA

1. Introduction

- 1.1. This Guide sets out the Council's obligations under the Regulation of Investigatory Powers Act 2000 (RIPA). RIPA requires the Council to have in place procedures which ensure that where required, surveillance is necessary, proportionate and properly authorised.
- 1.2. The Council takes its statutory responsibilities seriously and will, at all times, act in accordance with RIPA and the Codes of Practice and take necessary and proportionate actions in these matters.

2. CENTRAL BEDFORDSHIRE COUNCIL'S POLICY

- 2.1. Having regard to the above, the Council's Policy for the conduct of covert surveillance is :-
 - 2.1.1. Central Bedfordshire Council shall only undertake covert surveillance of a private individual in accordance with the provisions of RIPA.
 - 2.1.2. The Council and its Officers shall only carry out surveillance where it is reasonably believed that the authorisation is necessary for the purposes of preventing and detecting crime or preventing disorder. The Council shall ensure that the surveillance is proportionate to what it seeks to achieve.
 - 2.1.3. It is a requirement of this Policy that all officers involved in RIPA processes receive full and appropriate training.

3. Background – What does RIPA do?

- 3.1. RIPA sets out the statutory mechanism for authorising covert surveillance, the use of a Covert Human Intelligence Source (CHIS) and the acquisition of communications data. It seeks to ensure that any interference with a citizen's rights under Article 8 of the European Convention and the Human Rights Act 1998 is necessary and proportionate and therefore there is a

proper balance between the public interest and the human rights of individuals.

- 3.2. Some Council activities may necessarily require covert surveillance to be used in the course of its statutory enforcement functions, for example, benefit fraud, fly-tipping, schools, planning or licensing enforcement.
- 3.3. Surveillance is a last resort that an investigator will utilise to prove or disprove an allegation. Covert surveillance must only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective. No activity shall be undertaken within the definition of intrusive surveillance

4. The Rules

- 4.1. All employees of the Council and external agencies working for the Council are covered by RIPA and Human Rights Act 1998 whilst they are working for the Council.
- 4.2. It is crucial that all directed surveillance is properly authorised and prior approval has been obtained from the Magistrates' Court.**
- 4.3. Any evidence gathered by surveillance subject to RIPA but not properly authorised may be inadmissible in court. Surveillance without proper authorisation could also lead to complaints, challenges and/or claims for compensation. Therefore, it is essential that all involved with RIPA comply with this Guide and procedure.
- 4.4. The Council **can only** authorise use of directed surveillance under RIPA to prevent or detect serious criminal offences that are either punishable by at least 6 months' imprisonment or more **or** are related to the underage sale of alcohol and tobacco.
- 4.5. The Council **cannot** authorise directed surveillance for the purpose of preventing disorder (unless this involves a criminal offence(s) punishable with of at least 6 months' or more imprisonment e.g. criminal damage, dangerous waste dumping);
- 4.6. The Council **can only** authorise the use of directed surveillance provided that the tests of necessity and proportionality are met. In other words if you can carry out an investigation by means which do not involve directed surveillance, then you cannot demonstrate surveillance is necessary and you must use those alternative means over surveillance.
- 4.7. The Council **cannot** carry out intrusive surveillance.

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4.8. The Council is subject to audit and inspection by the Office of the Surveillance Commissioner, which oversees the conduct of covert surveillance and covert human intelligence sources by public authorities in accordance with legislation. It is important that the Council demonstrates compliance with RIPA and with this Policy.

4.9. *What is not covered*

4.9.1. Most surveillance carried out by the Council will be overt and not covert. Officers in doing their normal jobs, for example, inspection of food premises, where the subject knows about the inspection will be carrying out overt surveillance. Overt surveillance does not require authorisation under RIPA.

4.9.2. Other examples would be an officer may be on duty at public events and will monitor the crowd to maintain public safety and prevent disorder; Environmental Health Officers might covertly observe and then visit a shop as part of their enforcement function. Such observation may involve the use of equipment merely to reinforce normal sensory perception, such as binoculars, or the use of cameras, where this does not involve systematic surveillance of an individual. It forms a part of the everyday functions of law enforcement or other public bodies.

4.9.3. Neither do the provisions of the Act cover the use of overt CCTV surveillance systems or Automatic Number Plate Recognition Cameras (ANPR). Members of the public are aware that such systems are in use, for their own protection, and to prevent crime. Their operation is covered by the Data Protection Act 1998 and the CCTV Code of Practice 2008, issued by the Information Commissioner's Office. Similarly, the overt use of ANPR systems to monitor traffic flows or detect motoring offences does not require an authorisation under RIPA. For information about this, contact Rob Lawrence, CCTV Team Leader, or the Council's Senior Responsible Officer (SRO) or the RIPA Co-Ordinator (whose contact details are in Part II of this document.)

4.9.4. However, where overt CCTV or ANPR cameras are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation must be considered. Such covert surveillance is likely to result in the obtaining of private information about a person (namely, a record of their movements and activities) and therefore falls properly within the definition of directed surveillance.

4.10. *What is covered*

4.10.1. The Act is designed to regulate the use of “covert” surveillance which is directed surveillance, Intrusive Surveillance and the use of a CHIS. These are dealt with individually below. It also permits the Council to compel disclosure of communications data from telecom and postal companies or obtain communications records from communications companies.

5. Types Of Surveillance

5.1. “Covert Surveillance”

5.1.1. This is defined as “surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place” It should be noted that surveillance may also intrude on the privacy of others who are not the subject of surveillance but who are unintentionally observed.

5.2. “Directed Surveillance” is surveillance which is

5.2.1.1. covert; and

5.2.1.2. not intrusive (as defined below); and

5.2.1.3. not carried out as an immediate response to events which would otherwise be unreasonable to seek authorisation e.g. seeing something suspicious and continuing to observe it; and

5.2.1.4. undertaken for the purpose of a specific investigation or operation; and

5.2.1.5. in a manner likely to obtain private information about an individual (whether or not that person is specifically targeted for the purposes of an investigation).

5.2.2. The key issue in “Directed Surveillance” is the targeting of an individual with the likelihood of gaining private information. Private information in relation to a person includes any information relating to his/her private or family life to produce a detailed picture of a person’s life, activities and associations.

5.2.3. In practice, the sort of directed surveillance which the Council might undertake would include the use of concealed cameras as part of an investigation into antisocial behaviour, it might include covert surveillance

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connected with the enforcement of environmental health regulations or in connection with investigating benefit fraud.

- 5.2.4. You must treat anything involving the use of concealed cameras or anything involving keeping covert observation on premises or people as potentially amounting to directed surveillance. If you are unsure, please take advice either from your manager or supervisor, or from the RIPA Co-Ordinator within LGSS.
- 5.2.5. Directed surveillance **must** be properly authorised in accordance with the procedure set out from paragraph 7 onwards.
- 5.2.6. You must treat any covert surveillance which is likely to intrude upon anyone's privacy to more than a marginal extent as directed surveillance, even if it does not fall within the strict terms of the definition – for instance where surveillance is not part of a specific investigation or operation.

5.3. Directed Surveillance and Social Media

- 5.3.1. The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever you intend to use the internet as part of an investigation, you must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights, including the effect of any collateral intrusion.

Any activity likely to interfere with an individual's Article 8 rights must only be used when necessary and proportionate to meet the objectives of a specific case. If your proposed use of social media in connection with an investigation amounts to covert directed surveillance within the scope of RIPA by electronic means, an authorisation is needed in accordance with the procedure set out from paragraph 7 onwards. Where an investigator may need to establish a relationship covertly online, for example contacting individuals using social media websites (particularly if you are sending a friend request over Facebook or direct messaging over Twitter), a CHIS authorisation is likely to be needed and the SRO or RIPA Co-Ordinator must be consulted.

- 5.3.2. Where individuals publish information freely (e.g. twitter accounts, LinkedIn profiles), this may not amount to an interference with Article 8 rights. However, care should be taken with other social media, such as Facebook. Even if the user has not used privacy settings to restrict access, this does not necessarily mean that they have made a decision to publish personal information to the world. It is likely to be proportionate, in connection with an investigation (e.g. benefit fraud) to make a single visit to an unsecured Facebook profile. Further visits could amount to surveillance. If you are considering monitoring social media such as

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Facebook in connection with an investigation, you must first seek advice on whether RIPA authorisation is needed.

5.4. “Intrusive Surveillance”

WARNING:
THE COUNCIL CANNOT CARRY OUT INTRUSIVE SURVEILLANCE.

Intrusive surveillance is defined as:

5.4.1.1. Covert surveillance; and

5.4.1.2. is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

5.4.1.3. involves the presence of a person on the premises or in a vehicle or is carried out by a surveillance device in the premises or vehicle.

5.4.2. In essence, intrusive surveillance amounts to intrusion into people’s homes or vehicles either physically or by means of a surveillance device.

5.4.3. Surveillance equipment mounted outside the premises or vehicle will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises or vehicle. High quality video or CCTV cameras may run the risk of providing high quality data which may be considered intrusive. Similarly some recording devices used to record noise may provide evidence of the same quality as if the device was actually in the premises. Care must be taken to properly assess whether the information will be intrusive. If officers are in any doubt they must seek advice from the RIPA Co-Ordinators.

5.4.4. Intrusive surveillance can only be carried out by the police and other specific law enforcement agencies like Customs and Excise. **The Council cannot authorise intrusive surveillance and cannot carry out intrusive surveillance.** If you are asked by another agency to co-operate with intrusive surveillance, you must seek advice from SRO or the RIPA Co-Ordinator immediately. Where other authorities say that they are authorised to undertake intrusive surveillance but need our co-operation, we need to check their authorisation.

5.5. A “Covert Human Intelligence Source” (CHIS) is defined as:

5.5.1.1. a person who establishes or maintains a relationship with another person for the covert purpose of EITHER:

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5.5.1.2. covertly using such a relationship to obtain information or to provide access to any information to another person;

OR

5.5.1.3. they covertly disclose information obtained by the use of such a relationship or as a result of the existence of such a relationship;

5.5.2. The key issue is the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose or (in the case of disclosure of information) it is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the disclosure in question.

5.5.3. Persons who complain about Anti-Social Behaviour and are asked to keep a diary will not normally be CHIS as they are not required to establish or maintain a relationship for a covert purpose. However, if we are relying on, say, a neighbour to ask questions with a view to gathering evidence, then this may amount to use of a covert human intelligence source and authorisation must be sought.

5.5.4. A young person carrying out a single test purchase at a shop would not normally be considered to be a CHIS, however if the young person revisits the same shop so as to encourage familiarity, they could be considered a CHIS and authorisation must be sought.

5.5.5. The use by the Council of CHIS is expected to be extremely rare and, for that reason, this guide does not deal with the issues to which they give rise. If you are contemplating use of a covert human intelligence source, please take specific advice from the RIPA Co-Ordinator before putting your plan into action. There are a number of arrangements that need to be in place before a CHIS can be used, such as the appointment of an officer who is responsible for welfare and security of the CHIS.

5.6. Communications Data

5.6.1. The provisions of RIPA permit local authorities to access communications data where it is necessary for the purpose of preventing or detecting crime.

5.6.2. There are stringent controls placed on access by the Council to “communications data”. The Council is not entitled to obtain access to the content of communications between third parties but can, in some circumstances, obtain information relating to the use of a communications

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service. "Communications services" include telecom providers, postal services and internet service providers.

- 5.6.3. This is a complex area, procedurally and legally. Access to communications data can only be obtained through the Council's designated "single point of contact" ("SPOC") for communications data

The Council does not currently have an appointed Single Point of Contact and therefore uses the National Anti Fraud Network (NAFN) for this purpose.

- 5.6.4. Communication data means any traffic or any information that is or has been sent by or over a telecommunications system or postal system, together with information about the use of the system made by any person.

- 5.6.5. These powers must be used in accordance with the Code of Practice on Accessing Communications.

If you wish to use access communications data, only the SRO, Jo Borthwick and Julie Luckman are Designated Persons for the purpose of Communication Data. You must speak to them or the RIPA Co-Ordinator to access communications data.

The designated person shall consider the application and record his considerations at the time in writing or electronically. If the application is necessary and proportionate in the circumstances, an authorisation is granted. The designated person must have current working knowledge of human rights principles, specifically those of necessity and proportionality, and how they apply to the acquisition of communications data.

Designated persons must ensure that they grant authorisations or give notices only for purposes and only in respect of types of communications data that a designated person of their position in the Council may grant or give. The designated person shall take account of any advice provided by the SPoC.

Designated persons should not be responsible for granting authorisations or giving notices in relation to investigations or operations in which they are directly involved.

- 5.7. Legally Privileged, Religious Material and Confidential Information

- 5.7.1. Particular care must be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved. Confidential information consists of communications subject to legal privilege,

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communications between a Member of Parliament and another person on constituency matters, confidential personal information, or confidential journalistic material. It can include medical or financial records.

- 5.7.2. It is unlikely that the normal surveillance activities of the Council will result in acquisition of this type of information but where the risk analysis identifies a possibility of obtaining such information prior consultation with the RIPA Co-Ordinator must be carried out who will also discuss it with the SRO. If confidential information is or is likely to be obtained the Chief Executive must specifically authorise the surveillance. It will require particularly strong justification and arrangements will need to be put in place to ensure that the information obtained is kept secure and only used for proper purposes.

6. Codes of Practice

- 6.1. Codes of practice exist for all areas of RIPA including Covert Surveillance, Covert Human Intelligence Sources and Acquisition and Disclosure of Communications Data. There is also guidance for surveillance camera system or CCTV operators. These Codes are not reproduced in this Guide because they are subject to change, updating and amendments. However the Codes together with other information on RIPA can be accessed via <http://surveillancecommissioners.independent.gov.uk> which is the Office of Surveillance Commissioners' website.
- 6.2. Officers using RIPA must be familiar with the Codes of Practice.

7. Authorising Directed Surveillance

- 7.1. Detailed guidance on the authorisation procedure and on how to complete the statutory forms is available on the Council's Intranet at [to be inserted]. The individual forms are available at [to be inserted]. You must only use the forms that are on the Intranet, you must read the accompanying notes carefully and follow them when completing the form.
- 7.2. *Who can authorise directed surveillance?*
- 7.2.1. Regulations made under the Act say that the most junior level at which authorisations can be given is by what it refers to as "assistant chief officers". For the purposes of this Code, authorisations may only be given by the officers identified in Part II of this Guide referred to as "authorising officers". They must have received appropriate training.
- 7.2.2. Where practical, the authorising officer must not be directly involved in the case giving rise to the request for authorisation. (However, an authorising officer may authorise a request made by staff who report to them if they

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are not directly involved in the case.) Where it is not practical for authorisation to be given by an officer who is not directly involved, this must be noted with reasons on the authorisation form.

7.2.3. In addition to internal authorisation, directed surveillance cannot be carried out without the approval of a Magistrate. (See paragraph 8 below)

7.3. *On what grounds can directed surveillance be authorised?*

7.3.1. As mentioned in the Rules under paragraph 4, the Council can only authorise directed surveillance if it is **necessary** and **proportionate** and for certain purposes, namely to prevent or detect serious criminal offences that are either punishable by at least 6 months' imprisonment or more or are related to the underage sale of alcohol and tobacco.

7.4. *Is the proposed surveillance proportionate?*

7.4.1. Authorisation cannot be sought, and authority must not be given unless you are satisfied that the surveillance is proportionate. You have to make sure that any interference with privacy is justified by the end being sought. Unless the benefit to be obtained from surveillance is significant, and unless the problem you are seeking to tackle is serious, the use of surveillance is unlikely to be proportionate.

7.4.2. In assessing proportionality, consider whether other less intrusive means could be used to gather information.

7.4.3. Take into consideration the risk of intrusion into the privacy of persons (including those not subject to the investigation).

7.4.4. You should ask is the proposed surveillance discriminatory? The Council is under a legal obligation to avoid either direct or indirect discrimination in carrying out its functions. As surveillance can interfere with rights contained in the European Convention on Human Rights, discrimination can also amount to a breach of the Human Rights Act. You should be sensitive to this issue and ensure that you apply similar standards to seeking or authorising surveillance regardless of ethnic origin, sex or sexual orientation, disability, age etc. You should be alert to any assumptions about people from different backgrounds which may not even be consciously held. Consider the diverse impact on community confidence that may result from the information obtained.

7.5. *Consider the degree of intrusion for those likely to be affected*

7.5.1. In other words, might the surveillance intrude upon the privacy of people other than those who are the subject of the investigation? This is known as collateral intrusion. You must be sensitive of the privacy rights of third parties and consider very carefully whether the intrusion into their privacy is justified by the benefits of undertaking the surveillance. Consider if there are measures that can be put in place to avoid any collateral intrusion.

7.6. The Procedure

7.6.1. Before submitting an application for authorisation, you must supply a copy of your request to the SRO or RIPA Co-Ordinator. The RIPA Co-Ordinator will provide a Unique Reference Number for each RIPA application, upon request by an Investigating Officer. The RIPA Co-Ordinator can provide advice and assistance to the Investigating Officer and the Authorising Officer. You may only submit your application for authorisation if you obtain the approval of the SRO or RIPA Co-Ordinator.

7.6.2. A written application for authorisation for directed surveillance must describe in detail any conduct to be authorised and the purpose of the investigation or operation. The application shall also include:

- 7.6.2.1. A description of the nature of the surveillance;
- 7.6.2.2. the identities, where known, of those to be the subject of the surveillance;
- 7.6.2.3. an explanation of the information which it is desired to obtain as a result of the surveillance;
- 7.6.2.4. the reasons why the authorisation is necessary in the particular case
- 7.6.2.5. and on the grounds (e.g. for the purpose of preventing or detecting crime) listed in Section 28(3) of the 2000 Act;
- 7.6.2.6. the reasons why the surveillance is considered proportionate to what it seeks to achieve;
- 7.6.2.7. the details of any potential collateral intrusion and why the intrusion is justified;
- 7.6.2.8. the details of any confidential information that is likely to be obtained as a consequence of the surveillance.

7.6.3. A subsequent record is needed of whether authority was given or refused, by whom and the time and date.

7.6.4. In assessing an application the Authorised Officer must also be mindful of corporate policy and satisfy himself or herself that the RIPA authorisation is in accordance with the law, necessary and proportionate.

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- 7.6.5 When authorising the conduct or use of CHIS the Authorised Officer must also be satisfied that the conduct and/or use of the CHIS is proportionate to what is being sought to be achieved. They must also be satisfied that the appropriate arrangements are in place for the management of the CHIS. This must include a risk assessment for health and safety.

WARNING: Ensure that records are available on a need to know basis.

8. Authorisation by the Magistrates' Court

- 8.1. Prior to any directed surveillance being carried out, the Council is required to apply for approval from the Magistrates' Court and until such approval is in place, you must **not** commence your surveillance.
- 8.2. Once the application for authorisation is approved by an Authorising Officer and the SRO or RIPA Co-Ordinator, the Co-Ordinator will make arrangements for application to be made to the Magistrates' Court to obtain the approval of every authorisation or renewal that has been granted. The Co-Ordinator will obtain details of the relevant Authorising Officer when providing a Unique Reference Number and will require the Authorising Officer to provide the original signed authorisation or renewal that has been granted as soon as reasonably practicable, in order that an application may be made to the Magistrates' court in good time.
- 8.3. The Co-Ordinator will advise the relevant Authorising Officer and the relevant Investigating Officer as soon as reasonably practicable of the outcome of the application to the court for approval of the authorisation.
- 8.4. A Magistrate may only approve the application if satisfied that it:
- 8.4.1. is necessary for the purposes set out in RIPA and is proportionate in human rights terms to what it seeks to achieve;
 - 8.4.2. has been authorised by a person in the Council at the level designated in RIPA;
 - 8.4.3. meets any other restriction imposed (for example the 'serious crime' threshold that applies to directed surveillance); and
 - 8.4.4. sets out, for CHIS's, that the relevant procedures and supporting officers are in place to protect the welfare and safety of the CHIS.

9. Time Limits & Cancellations

- 9.1. The authorisation must be reviewed within the time stated on the application form and cancelled by the authorising officer who authorised it if no longer necessary.

- 9.2. **WARNING: there must be a cancellation form completed for each authorisation once surveillance is completed.** In other words it cannot be left to simply lapse. A copy of the form must be given to the SRO.
- 9.3. The authorisation for directed surveillance will cease to have effect (unless renewed or cancelled) at the end of **3 months** from the date on which the authorisation takes effect (and 12 months for a CHIS).

10. Reviews

- 10.1. Regular reviews of authorisations must be undertaken to assess the need for the surveillance to continue. The maximum period between authorisation and review, and between reviews, is **four weeks**. The more significant the infringement of privacy, the more frequent the reviews. The results of a review must be recorded on the central record of authorisations (see paragraph 115 below). Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.
- 10.2. In each case authorising officers within the Council shall determine how often a review will take place. This must be as frequently as is considered necessary and practicable.
- 10.3. A link to the form to record a review of an authorisation may be found in **[TBC]**.

11. Renewals

- 11.1. If at any time before an authorisation would cease to have effect, the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, s/he may renew it in writing for a further period of **three months**. A renewal cannot take effect unless it has been approved by a Magistrate. If you think a renewal might be needed, you need to plan to allow sufficient time for an application to a Magistrate to be made before expiry.
- 11.2. A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal is not to be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.
- 11.3. All applications for the renewal of an authorisation for directed surveillance must be made on the form (link **[TBC]**) and must record:

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- 11.3.1. whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
 - 11.3.2. any significant changes to the information given in the original application for authorisation;
 - 11.3.3. the reasons why it is necessary to continue with the directed surveillance;
 - 11.3.4. the results of regular reviews of the investigation or operation.
- 11.4. Authorisations may be renewed more than once, if necessary, and the renewal must be kept/recorded as part of the central record of authorisations (see paragraph 155).
- 11.5. In addition, the Co-Ordinator will review and comment upon each authorisation/renewal before it is made by the Authorising Officer to ensure that such authorisations/renewals are granted properly, are appropriate and that all forms have been fully completed.

12. Monitoring

- 12.1. Quentin Baker, LGSS Director of LGSS Law, is the Council's appointed Senior Responsible Officer for RIPA. He has responsibility for the integrity of the process to authorise directed surveillance, to ensure compliance with the Act and the Codes of Practice, to engage with the Commissioners and Inspectors when they conduct inspections, to oversee the implementation of any post-inspection action plan recommended or approved by a Commissioner and to ensure all Authorising Officers are of an appropriate standard.
- 12.2. The Senior Responsible Officer will provide an annual report to the General Purposes Committee to enable continual Member oversight of this RIPA Policy, to provide a summary of operations, training and central records concerning the Council's use of RIPA powers.
- 12.3. The SRO maintains this Policy and Guide on behalf of the Council, ensuring it is up to date and accurate. The SRO must also maintain a central record of authorisations and maintain a list of authorised officers for the purpose of RIPA.
- 12.4. Regular monitoring of authorisations shall be undertaken by the SRO to ensure compliance with RIPA, the Codes of Practice and Council Policy. In addition, as part of the democratic process, elected Members review the use of RIPA powers by the Council. This process is administered through the Council's Constitution.

- 12.5. In cases where the Council is acting on behalf of another authority or agency (e.g. the Police) the other authority normally obtain or provide the authorisation. In cases where the Council is the lead authority it will obtain the required authorisation and where operational support of other agencies is foreseen, this must be specified in the authorisation.

13.Errors

- 13.1. Any errors must be reported to the SRO and advice sought on what action is needed.

14.Disclosure and Retention Of Material

- 14.1. Material obtained from a source may be used as evidence in criminal proceedings. The proper authorisation of a source will ensure the suitability of such evidence and compliance under the common law, Section 78 of the Police and Criminal Evidence Act 1984, the Data Protection Act 1998 and the Human Rights Act 1998. Furthermore, the product or information obtained by a source is subject to the ordinary rules for retention and disclosure of material under the Data Protection Act 1998 and Criminal Procedure and Investigations Act 1996. There are well established legal procedures that will protect the identity of a source from disclosure in such circumstances.

15.Keeping Of Records

- 15.1. A record of the following information pertaining to all authorisations shall be held centrally and retrievable for a period of three years from the ending of each authorisation. This information must be regularly updated whenever an authorisation is granted, renewed or cancelled.
- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer
 - a record of the period over which the surveillance has taken place
 - the frequency of reviews prescribed by the authorising officer
 - a record of the result of each review of the authorisation
 - a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested
 - the date and time when any instruction to cease surveillance was given

- the date and time when any other instruction was given by the authorising officer.

A copy of all completed forms authorising, renewing or cancelling directed surveillance must be provided to the SRO.

PART II

LIST OF AUTHORISED OFFICERS & OTHER ROLES

Authorising Officers (AO's)

NAME	DESIGNATION	LOCATION
Richard Carr	Chief Executive	Priory House
Charles Warboys	Assistant Director Financial Services	Priory House
Gary Muskett	Head of Revenues	Watling House
Su Childerhouse	Head of Public Protection	Priory House
Jeanette Keyte	Head of Community Safety	Watling House

Authorising officers are persons within the Council who are entitled to grant authorisations under the 2000 Act. The Authorising Officer on receiving the application must ensure the form has a unique reference number (URN), is properly completed, and contains sufficient information to make an informed decision. The Authorising Officer must satisfy themselves that the activities proposed in the application are necessary on the grounds stated and that the surveillance is proportionate to what it seeks to achieve. This involves balancing the intrusiveness of the activity on the person being targeted and any others who may be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could have been obtained by other less intrusive means. If satisfied, an Authorising Officer may sign and authorise the written application and ensure a copy of the signed authorisation must be placed on the case file and the original copy forwarded to the SRO for the central file. The form also requires the Authorising Officer to consider when the authorisation must be reviewed.

A PROCEDURE GUIDE

On the use of covert surveillance and covert human intelligence sources
Version 5.3 - July 2016

Senior Responsible Officer (SRO)

NAME	DESIGNATION	LOCATION
Quentin Baker	Monitoring Officer and Director of LGSS Law	Priory House

Quentin Baker, Director of LGSS Law, is the Council's appointed Senior Responsible Officer for RIPA. He has responsibility for the integrity of the process to authorise directed surveillance, to ensure compliance with the Act and the Codes of Practice, to engage with the Commissioners and Inspectors when they conduct inspections, to oversee the implementation of any post-inspection action plan recommended or approved by a Commissioner and to ensure all Authorising Officers are of an appropriate standard.

If there is any doubt as to the applicability of this Policy or the advice of the Co-Ordinators, the issue can be referred to the Senior Responsible Officer for a final decision.

The Senior Responsible Officer will provide an annual report to the General Purposes Committee to enable continual Member oversight of the RIPA Policy, to provide a summary of operations, training and central records concerning the Council's use of RIPA powers.

Quentin Baker is also the Council's Monitoring Officer and under the Council's Constitution can add to or amend the list of Authorised Officers.

RIPA Co-Ordinators

NAME	DESIGNATION	LOCATION
Sarah McIntyre	Senior Solicitor – Litigation LGSS	Priory House
Maria Damigos	Corporate Lawyer LGSS	Priory House

The Legal Co-Ordinator will provide a URN for each RIPA application, upon request by an Investigating Officer. The Co-Ordinator will maintain a central record of all RIPA authorisations, renewals and cancellations. In addition, the Co-Ordinator will review and comment upon each authorisation/renewal before it is made by the Authorising Officer to ensure that such authorisations/renewals are granted properly, are appropriate and that all forms have been fully completed. In addition the Co-Ordinator will be able to provide advice on RIPA issues to Investigating and Authorising Officers and will assist with organising training.

The Co-Ordinator will make arrangements for applications to be made to the Magistrates' Court to obtain the approval of every authorisation or renewal that has been granted. The Co-Ordinator will obtain details of the relevant Authorising Officer when providing a URN and will require the Authorising Officer to provide the original signed authorisation or renewal that has been granted as soon as reasonably practicable, in order that an application may be made to the Magistrates' court in good time.

The Co-Ordinator will advise the relevant Authorising Officer and the relevant Investigating Officer as soon as reasonably practicable of the outcome of the application to the court for approval of the authorisation.

The Co-Ordinator will take all reasonable steps to support the administration of the RIPA scheme within the Council.

DOCUMENT VERSION CONTROL

Accountable Director	Chief Executive
Policy Author (Title)	–Sarah McIntyre - Senior Solicitor
Approved By (Title)	Senior Responsible Officer
Date Approved	TBC
Issue Date	TBC
Review Date	01.04.2017
Next Review Date	1 April 2017 or following OSC Report if sooner
Person Responsible for Review (Title)	Policy Author
Include in Publication Scheme (Y/N)	Yes
Publish to Web (Y/N)	Yes
Circulation	All

Pursuant to paragraph 4.2.34.1 of Part H3 of the Council’s Constitution I approve the amendments to the Council’s Policies and Procedures regarding the Regulation of Investigatory Powers Act 2000 as contained in this Guide.

Signed:

Quentin Baker
Assistant Director Legal & Democratic Services

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

27 October 2016

WORK PROGRAMME

Advising Officers:

Mel Peaston, Committee Services Manager
(mel.peaston@centralbedfordshire.gov.uk)

Leslie Manning, Committee Services Officer
(leslie.manning@centralbedfordshire.gov.uk)

Purpose of this report

The purpose of this report is to assist the General Purposes Committee in discharging its responsibilities by providing a proposed work programme for consideration.

RECOMMENDATION

That the Committee considers the proposed work programme attached at Appendix A.

Overview and Scrutiny Comments/Recommendations

1. This report is not scheduled to be considered by Overview and Scrutiny because the General Purposes Committee has full delegated powers to deal with all non-Executive functions which are not reserved to the full Council or are not otherwise delegated.

Background

2. To assist the General Purposes Committee a work programme is attached at Appendix A to this report. The work programme contains the known agenda items that the Committee will need to consider.
3. Additional items will be identified as the municipal year progresses. The work programme is therefore subject to change.

Council Priorities

4. The activities of the General Purposes Committee are crucial to the governance arrangements of the organisation.

Corporate Implications

Legal Implications

5. There are no legal implications.

Financial Implications

6. There are no financial implications.

Equalities Implications

7. 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.
8. Report authors will be encouraged to work with the Corporate Policy Advisor (Equality & Diversity) in order to ensure that relevant equality implications are identified.

Conclusion and next Steps

9. This report will assist the General Purposes Committee in discharging its responsibilities. Any amendments approved by the Committee will be incorporated in the work programme.

Appendices

Appendix A – General Purposes Committee Work Programme

Background Papers

None

Appendix A

General Purposes Committee Work Programme

2016/17 Municipal Year	
30 June 2016	<ul style="list-style-type: none"> • Amendments to the Council's Constitution (QB/MD) • Market Rate Supplement Payments – Annual Update (CJ) • Revisions to the Terms of Reference for the Wixams Joint Development Control Committee (MP) • Member Development Programme (AP) • Work Programme (LM)
25 August 2016 CANCELLED	<ul style="list-style-type: none"> • Standards Complaints – Annual Report (QB) • Work Programme (LM)
27 October 2016	<ul style="list-style-type: none"> • 2018 Review of Parliamentary Constituencies (BD) • Arrangements for Ethical Standards (Standards Complaints) (QB) • Review of Policy and Procedure under RIPA 2000 (QB) • Work Programme (LM)
8 December 2016	<ul style="list-style-type: none"> • Pay Policy Statement 2017/18 (CJ) • Reordering of Constitution (QB) • Indexing of Constitution (QB) • Work Programme (LM)
30 March 2017	<ul style="list-style-type: none"> • Code of Conduct Matters – Six Month Update (QB) • Review of Updates to the Constitution (MP) • Work Programme (LM)

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