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**Meeting:** General Purposes Committee  
**Date:** 17 July 2014  
**Subject:** Annual Report on the Arrangements for Ethical Standards  
**Report of:** Chief Legal & Democratic Services Officer/Monitoring Officer  
**Summary:** The report considers ethical standards for the year 2013/14.

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**Advising Officer:** Melanie Clay, Chief Legal & Democratic Services Officer/Monitoring Officer  
**Contact Officer:** As above  
**Public/Exempt:** Public (Appendices D and E are exempt)  
**Wards Affected:** All  
**Function of:** Council

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

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

### **Financial:**

1. The proposals contained in this report have no specific financial implications. However Members are advised that there are limited resources available for this work and therefore the current volume of complaints for initial assessment and investigation has generated a pressure on resources within Legal and Democratic Services.

### **Legal:**

2. 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 Town and Parish Councils (T&PCs) and for investigating Code of Conduct complaints made against Town and Parish Councillors. However the Monitoring Officer has also found that she is regularly requested by the T&PCs to advise on a range of legal and/or procedural queries that are unrelated to the Code of Conduct and therefore fall outside of this Council's responsibility. As these are matters for the T&PCs to deal with themselves, the Monitoring Officer will liaise with the Clerks to identify appropriate alternative sources of advice and assistance for them to consider.

**Risk Management:**

3. 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):**

4. 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.

**Equalities/Human Rights:**

5. 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.

**Public Health**

6. Not applicable.

**Community Safety:**

7. Not applicable.

**Sustainability:**

8. Not applicable.

**Procurement:**

9. Not applicable.

**RECOMMENDATION:**

1. **The Committee is asked to review the arrangements that the Council has made to comply with its obligations in respect of ethical standards under the Localism Act 2011 in the light of the experiences since July 2013 to date.**
2. **Delegate authority to the Monitoring Officer, in consultation with the Chair of General Purposes Committee to amend the Arrangements for Dealing with Standards Allegations under the Localism Act 2011.**

**Introduction:**

10. 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 T&PCs.

11. The Council adopted a new Code of Conduct at its Annual Meeting in April 2012 (see Appendix A). The relevant provisions in the Localism Act 2011 came into force on 1 July 2012 and in accordance with those provisions the Council subsequently approved the matters that should be included in the Register of Interests and appointed a panel of Independent Persons to provide views on complaints.
12. The purpose of this report is to provide the Committee with a summary of how the arrangements have worked in practice over the last 12 months.

### **The Code of Conduct**

13. 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. A number of T&PCs have adopted the model Code of Conduct circulated by the National Association of Local Councils (NALC). 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.
14. In practice, the Code seems to provide a sound framework for issues regarding the conduct of Members. However an area of debate that has arisen in the course of the year has been 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 longer the option available to suspend a Member from public office or attendance at public meetings. The list of sanctions are found at paragraph 11 in Appendix B.

### **The Register of Interests**

15. The Council decided to confine the items that must be included in the Register of Interests to those disclosable pecuniary interests that were prescribed by the government in Regulations. However, 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.

16. 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. In August 2012, the Secretary of State issued guidance for councillors entitled: Openness and transparency on personal interests. In this guidance, the Secretary of State emphasised that under the principle of honesty holders of public office have a duty to declare any private interests relating to their public duties and that this is an ongoing obligation during a Member's term of office.
17. Members were asked to submit fresh register of interests forms to reflect the new categories of disclosable pecuniary interest prescribed by the Regulations. Members are responsible for updating their register within 28 days of any change

in their interests. Failure to disclose a pecuniary interest is a potential criminal offence.

18. This Council's Monitoring Officer is responsible under the Act for ensuring that the registers of interest for all the T&PCs in the area are published on the Council's website and are available for inspection. Currently we have received 573 completed forms for Town and Parish Councillors with approximately 160 still outstanding. Those forms outstanding are being followed up by the Monitoring Officer.

### **Independent Persons**

19. The Council worked in collaboration with Bedford, 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. This arrangement continues to work well providing an effective backstop and reality check for the Monitoring Officer as part of the initial assessment and investigations stages of the procedures.
20. 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. A minimal fee and reasonable expenses are provided to an Independent Person per case and all Independent Persons are held on the Panel by way of retainer, the cost of which is shared across the Authorities.

### **Complaints**

21. A copy of the procedure that the Council has adopted for handling complaints is attached as Appendix B, with the procedure for a Sub Committee Hearing (in flow chart form) at Appendix C.
22. The procedure provides for the Monitoring Officer to carry out an initial assessment of all complaints received, in consultation with an Independent Person to decide whether there is a potential breach of the Code of Conduct and accordingly to take (i) no further action, (ii) recommend a local resolution, or (iii) proceed to a formal investigation. If a formal investigation is required, interviews will be conducted by an investigating officer and the views of the Independent Person sought. A report is then produced for the Monitoring Officer to make a final decision or refer to the Standards Sub Committee. At any point the Monitoring Officer can ask for a review of the complaint by the Standards Sub-Committee or (after investigation) a hearing to determine the facts and, if appropriate, sanction the Member. Current resources to administer this work are the Monitoring Officer's time, support from the Corporate Lawyer (0.8FTE), assistance from the Committee Services Manager, and 2 cases are out for external investigation c. £5k per case.
23. Since the last report in July 2013 to the time of writing this report there have been 35 complaints received with 25 complaints being carried over from 2012/13 making a total of 60 complaints being dealt with during the past 12 months. Out of the complaints received 19 relate to one Council. The remaining 16 involve other Town and Parish Councils and Central Bedfordshire Council. In this 12 month period 26 complaints have been closed leaving 34 open matters.

24. 8 complaints are in the process of initial assessment; 3 have been referred for local resolution; 14 are being investigated (2 of these by external investigators) and 7 are to be heard as 1 matter by the Standards Sub-Committee in September 2014; 1 complaint is suspended for a 2 year period to be held on record as the member complained of is no longer a councillor; and 1 complaint has been determined as no further action.
25. There have been delays in the historic complaints inherited by the Monitoring Officer, and these have in part been addressed with implementation of a new tracking system, and subsequent appointment of the Corporate Lawyer to assist with this work.
26. As regards the 19 complaints against the Members of one Council, of these 1 is waiting for initial assessment; 5 complaints have been closed as no further action is to be taken; 2 have been referred for local resolution and the remaining 11 are in the process of investigation.

### **Training**

27. The complaints received have shown where training and guidance is most needed for Town and Parish Councillors and this is to be facilitated in conjunction with NALC and the Clerks to the T&PCs.

### **Conclusion and Next Steps**

28. The overall volume of complaints has had an adverse impact on the assessment process and it has not been possible in all cases for each stage of the procedure to be completed within the current locally prescribed timescales. Out of the 35 complaints received since the last report to Members (July 2013) 26 of these complaints have been received just in the period April to June 2014.
29. In light of this marked increase in volume the Monitoring Officer is working with her team to revise the process so that it is a better fit for purpose to cope with the volume and complexity of complaints going forward. Experienced external investigators/Independent Persons have advised that Code of Conduct investigations generally require 4-6 months to complete. This will be the guide timescale for this Council's cases going forward.
30. In conjunction with the Clerks, the Monitoring Officer also aims to encourage T&PCs to resolve more minor matters at a local level themselves (wherever possible) so that only the more serious potential breaches of the Code would be considered for investigation.
31. Going forward, officers of this Council will continue to work with the T&PCs to encourage best practice in use of their procedures and standing orders, as well as liaising with NALC and the Council's Partnership Team to facilitate further training and development opportunities for all Councillors.

### **Appendices:**

Appendix A – Section F1 of Constitution – The Council's Code of Conduct for Members

Appendix B – Section F2 of Constitution – Arrangements for Dealing with Standards Allegations under the Localism Act

Appendix C – Flow chart for Standards Sub-Committee Hearing Procedure

Appendix D (Exempt) – Summary of Councillor Code of Conduct Complaints as at July 2014.

Appendix E (Exempt) – Complaints Received 2013/14 – to be tabled.

**NB: Due to the content of Appendix E, it will be circulated at the meeting.**