

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

24 March 2016

Report on the Arrangements for Ethical Standards

Advising Officer: Quentin Baker, Assistant Director Legal and Democratic Services (interim) and Monitoring Officer
(quentin.baker@centralbedfordshire.gov.uk)

Contact Officer: Maria Damigos, Senior Commercial Lawyer (interim)
(maria.damigos@centralbedfordshire.gov.uk)

Purpose of this report

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

RECOMMENDATIONS

The Committee is asked to:

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

Overview and Scrutiny Comments/Recommendations

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

Introduction

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

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

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

The Code of Conduct

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

The Register of Interests

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

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

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

Independent Persons

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

Complaints

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

Training

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

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

Arrangements for the Future

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

Council Priorities

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

Corporate Implications

Risk Management

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

Staffing (including Trades Unions)

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

Legal Implications

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

Financial Implications

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

Equalities Implications

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

Conclusion and next Steps

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

Appendices

The following Appendices are attached:

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

Appendix B – Cumulative total of Councillor Code of Conduct Complaints