

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

27 October 2016

REPORT ON THE ARRANGEMENTS FOR ETHICAL STANDARDS

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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