

Central Bedfordshire Council

GENERAL PURPOSES COMMITTEE

29 March 2018

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 October 2017.

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 March 2017.
2. Clarify the position on publication of Decision Notices for the outcome of Code of Conduct complaints and make any appropriate recommendations to Council to update the Constitution if necessary.

Overview and Scrutiny Comments/Recommendations

2. This Report is an update on ethical standards to the General Purposes Committee. No decision by the Executive or Council for the Standards update is required. Clarification is also sought regarding publication of the outcome of complaints against Councillors. As the General Purposes Committee has responsibility for exercising the Council's functions in relation to ethical standards no comments or recommendations have been sought.

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 Monitoring Officer and 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 34 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. The on line facility for amending the Register of Member's Interests was being updated by Committee Services based on manual forms submitted by Members. There is now direct access available for Members to update the Register themselves.
12. Under the Act, this Council's Monitoring Officer is also responsible 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 is 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 nominal fee and reasonable expenses are provided to an Independent Person per case.
15. The Council shares a joint panel of 4 Independent Persons with Luton and Milton Keynes Councils and the Buckinghamshire and Milton Keynes Fire Authority. All Independent Persons were held on the Panel by way of retainer, the cost of which was shared across the Authorities with each Authority paying fees and expenses for their own cases.
16. This arrangement works 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.

Complaints

17. A copy of the procedure that the Council has adopted for handling complaints is attached as Appendix A.
18. 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 6 months no cases have been formally investigated.
19. For the period October 2017 to March 2018 the Monitoring Officer has received 4 complaints (there were 2 in the same period last year) with 3 complaints being carried over from September 2017 making a total of 7 complaints being dealt with in the period.
20. The complaints received were spread across 2 T&PCs (4 complaints) and CBC (3 complaints). Of the complaints against CBC Members one was withdrawn and it was concluded that two contained insufficient evidence to proceed any further. Appendix B shows the cumulative totals of complaints received for the past two years.

Training

21. 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.
22. 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 with specific training being provided in January 2018 to Council Members.
23. Guidance on the responsibility of Members under the new data protection legislation is also being arranged.

Publication of Decisions

24. On 26 October 2016 this Committee considered the publication of the outcome of complaints against councillors and decided to implement this approach. An extract of the relevant printed minutes is below:

GPC/16/20. Report on the Arrangements for Ethical Standards

The Committee received a report summarising the Council's ethical governance and arrangements since March 2016. The report included explanations relating to the following:

...

- *a proposal to publish the outcomes of decisions following complaints against Council members*

...

Points and comments were made, as follows:

- *the range of information included in published decisions following a complaint against a member of Central Bedfordshire Council could vary, depending on the circumstances, but would generally include the name of the Council member and the person who made the complaint with brief details of the complaint and the decision.*
- *a recommendation should be made to Council to amend the Constitution to enable the Monitoring Officer to publish such decisions*

RECOMMENDED TO COUNCIL

1. that the outcome of reports relating to complaints made under the Councillor Code of Conduct be published, and that the Constitution be amended to enable the Monitoring Officer to publish such decisions;

25. Full Council subsequently agreed to amend the Constitution and the following was inserted into Part 5B of the Council's Constitution at paragraph 12 (please see Appendix A):

12. At the conclusion of a complaint against a Central Bedfordshire Council member a notice detailing the decision will be placed on the relevant page on the Council's website.

26. This Committee is asked to clarify the detail of the publication of the outcome of complaints and in particular any restrictions on publication in specified circumstances including withdrawal, no further action and local resolution.

Arrangements for the Future

27. The Monitoring Officer retains statutory responsibility for dealing with Code of Conduct complaints. LGSS Law Ltd continues to deal 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 it has been noted that there appears to be an increase in complaints. This will be monitored for trends as well as preventative measures. Work to encourage best practice, facilitating training and development opportunities and guidance for all Councillors and Clerks will continue.
28. Monitoring and statistics for Code of Conduct complaints will continue to be provided.

29. 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

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

Corporate Implications

Risk Management

31. 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)

32. 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

33. 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

34. 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

35. 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

36. The number and types of complaints cannot be predicted and the figures show that the number of complaints being dealt with has risen slightly and care will be taken to ensure matters are dealt with effectively.

Appendices

The following Appendices are attached:

Appendix A – Part 5B 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