

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 arrangements since March 2018.

RECOMMENDATION

The Committee is asked to 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 2018..

Overview and Scrutiny Comments/Recommendations

2. This Report is an update on ethical standards to the General Purposes Committee. 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 from OSC.

Introduction

3. 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 includes complaints relating to Town and Parish Council (T&PCs) councillors.
4. 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.

5. 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

6. 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 T&PC 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.
7. In practice, the Code appears 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.
8. The Government's Committee on Standards in Public Life is currently reviewing local government ethical standards with its consultation phase closing in May 2018. The Committee will be publishing its report by the end of 2018. <https://www.gov.uk/government/collections/local-government-ethical-standards>. The March 2019 report to this committee will provide an update on this.

The Register of Interests

9. 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.
10. 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.
11. 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.

12. All Council members have disclosed their pecuniary interests.
13. Since February 2018 there has been an on-line facility for T&PC councillors to update their Register of Member's Interests and this has now been rolled out to include this Council's members. All councillors in Central Bedfordshire can now electronically update their interests on-line without the need for a hardcopy form to be completed.
14. Under the Act, the Monitoring Officer is 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.
15. The up to date figures for notification of Town and Parish Councillors interests is attached as Appendix C. Occasionally hardcopy forms are still received and when this occurs the Monitoring Officer contacts the Clerk of the T&PC and requests they arrange for the councillor to submit their interest via the on-line facility on CBC's website.

Independent Persons

16. 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.
17. 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.
18. 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

19. A copy of the procedure that the Council has adopted for handling complaints is attached at Appendix A.

20. 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 interim Deputy Monitoring Officer who is a lawyer employed by LGSS Law. During the past 6 months no cases have been formally investigated.
21. For the period March 2018 to October 2018 the Monitoring Officer has received 5 new formal complaints and 2 which were re-opened in June following receipt of additional evidence. No complaints were carried over from February 2018.
22. The complaints comprised, 4 complaints in respect of 3 Town or Parish Councils, one complaint in respect of a CBC councillor and two complaints re-opened in respect of one CBC councillor. Of the complaints against CBC Members one was concluded with no further action due to there being no breach of the code; and the two complaints that were re-opened in June are on-going. Appendix B shows the cumulative totals of complaints received for the past two years.

Training

23. Since August 2014 there has been ongoing liaison with the T&PC 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 formal complaints. The Monitoring Officer is contacted on a frequent basis by members of the public and T&PC councillors for advice and guidance on possible breaches of the Code or on general governance/ethical issues within T&PCs. It is hoped that this informal advice and guidance will continue to reduce the number of formal complaints being received in respect of T&PCs.
24. T&PCs are still encouraged to deal with 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.

Publication of Decisions

25. In accordance with the decision of this committee in March 2018 decision notices are being published on the website. Those decisions that are for no further action are published with the names anonymised. To date three decision notices have been published on the website.

Arrangements for the Future

26. The Monitoring Officer retains statutory responsibility for dealing with Code of Conduct complaints and deals with the day to day work relating to Code of Conduct and ethics issues. There appears to have been no change in the level of contact from T&PC's. However all recent informal complaints/requests for advice in respect of T&PCs have not resulted in formal complaints. This will be monitored for trends as well as preventative measures. Work to encourage best practice for T&PCs continues as and when an issue arises with a T&PC.
27. Monitoring and statistics for Code of Conduct complaints will continue to be provided.

Council Priorities

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

Corporate Implications

Risk Management

29. 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)

30. 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

31. 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

32. There are no specific financial implications.

Equalities Implications

33. 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

34. The next report to Committee will include an update on the Government's Committee on Standards in Public Life review of local government ethical standards.

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 – Previous 2 years cumulative totals of Councillor Code of Conduct Complaints

Appendix C – Figures for notification of Members Interests