

## AGENDA

### CONDUCT COMMITTEE

**WEDNESDAY, 3 JULY 2019**

**10.00 AM**

**COUNCIL CHAMBER, FENLAND HALL,  
COUNTY ROAD, MARCH, CAMBS, PE15  
8NQ**

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- 1 Appointment of Chairman for the Municipal Year.
- 2 To receive apologies for absence.
- 3 Appointment of Vice Chairman for the Municipal Year.
- 4 To report additional items for consideration which the Chairman deems urgent by virtue of the special circumstances to be now specified.
- 5 Members to declare any interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.
- 6 Revised Conduct Procedure Rules, Guidance & Templates (Pages 3 - 38)

The purpose of this Report is to enable members of the Conduct Committee an opportunity to review and comment on the proposed revisions to the Conduct Procedure Rules and the associated constitutional amendments required to bring them into effect.

- 7 Appointment of Independent Person. (Pages 39 - 40)

To appoint an Independent Person to assist the Conduct Committee in determining

Member Conduct complaints as set out within the Localism Act 2011.

8 Committee of Standards in Public Life recommendations. (Pages 41 - 62)

To bring to Members' attention the publication of a report by the Committee on Standards in Public Life and the associated impact/recommendations arising for Fenland District Council.

9 Forward Agenda Plan. (Pages 63 - 64)

For Information purposes.

10 Items of Topical Interest.

Tuesday, 25 June 2019

Members: Councillor D Topgood (Chairman), Councillor S Wallwork (Vice-Chairman), Councillor M Cornwell, Councillor D Patrick, Councillor M Purser, C Hawden-Beal and Councillor A Donnelly

Agenda Item No:	<b>6</b>	
Committee:	<b>Conduct Committee</b>	
Date:	<b>3rd July 2019</b>	
Report Title:	<b>Revised Conduct Procedure Rules, Guidance &amp; Templates</b>	

## 1. Purpose / Summary

The purpose of this Report is to enable members of the Conduct Committee an opportunity to review and comment on the proposed revisions to the Conduct Procedure Rules and the associated constitutional amendments required to bring them into effect.

## 2. Key issues

There is an ongoing requirement for the Constitution to be kept under review and, as appropriate, for changes to be proposed where they are necessary to ensure the Council's compliance with statute and guidance.

On 30th January 2019, the Committee on Standards in Public Life published the outcome of its Review on Local Government Ethical Standards

The proposed revisions to the Conduct Procedure Rules (and associated constitutional amendments) have been developed to ensure that Fenland District Council's arrangements are consistent with the recommendations set out in the report and general best practice requirements.

## 3. Recommendations

It is recommended that:

The Conduct Committee consider the proposed revisions to the Conduct Procedure Rules and associated Constitutional amendments and agree the draft for consultation with District, Town and Parish Councillors.

To consider feedback from Councillors at a meeting in September with the aim to forward final recommendations to Full Council on 18 September.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	
<b>Report Originator(s)</b>	Carol Pilson, Monitoring Officer Amy Brown, Deputy Monitoring Officer
<b>Contact Officer(s)</b>	Carol Pilson, Monitoring Officer
<b>Background Paper(s)</b>	Standards in Public Life Review:

## 1. BACKGROUND/INTRODUCTION

Following publication of the Committee on Standards in Public Life's findings in relation to its review on ethical standards in Local Government, arrangements were made to consider the extent to which Fenland District Council's existing practices and procedures could be enhanced to incorporate all relevant best practice requirements. This then formed the basis for the proposed revisions to the existing Conduct Committee Rules comprising Rule 9 of the Constitution.

## 2. CONDUCT PROCEDURE RULES

It is proposed that Rule 9 of the Constitution is replaced with the revised conduct committee rules set out in Appendix 1 of this Report. The proposed changes can be summarised as follows:

Existing Rules		Proposed Alterations
1, 2 & 5.1	<b>Introduction &amp; Definitions &amp; Complaints</b>	The changes to this section are relatively minor and consolidate/enhance the first 2 sections of the existing Rules to create new Section 1 entitled 'Introduction'.
3, 4 & 7	<b>Conduct Committee, Functions of the Conduct Committee &amp; Dispensations</b>	This paragraph has been removed from the Procedure Rules in favour of it instead being incorporated into the Article 9 and Part 3, Table 2 of the Constitution as detailed at paragraph 3 of this Report.
5.2 & 5.3	<b>Receipt of Complaints &amp; Informal Resolution of Complaints</b>	<p>These paragraphs have become part of a new Section 2 entitled 'Procedure for Dealing with Conduct Complaints' and incorporates all relevant aspects of the process. Specifically paragraph 5.2 and 5.3 have been developed and incorporated within new paragraph 2.1 entitled 'Reporting Concerns and Confidentiality' and 'Initial Consideration of the Complaint'.</p> <p>Of particular note within this section is the inclusion of information about the way in which anonymous complaints will be processed as well as the proposed requirements regarding confidentiality.</p> <p>There is a requirement that complaints are submitted in a specified Form (Appendix 3) which initially will be reviewed against the prescribed criteria by the Monitoring Officer and the Independent Person. There is no longer a requirement at this initial stage for the pre-screening of the complaint to involve the Chairman of the Conduct Committee. This proposal is intended to ensure the expedience of the process taking into account the overall availability of members and restrictions such as purdah which can cause delay. Also proposed is the introduction of a 'Decision Notice' in a prescribed form and which it is intended should be</p>

		published on a dedicated webpage at the point of the complaint being concluded (Appendix 4).
<b>5.4.1 - 5.4.8</b>	<b>Investigation of Complaints &amp; Consideration of the Investigation Report</b>	These paragraphs have also been incorporated into new Section 2. The existing paragraphs have been modified and amended with the most significant change being the removal of the requirement for the Conduct Committee to consider the complaint before it is referred for investigation. Instead the Monitoring Officer in consultation with the Independent Person will determine the requirement for an investigation and as appropriate who will conduct it and the scope. The MO and IP will also review the Investigation Report once complete and determine what if any action is required. Here it is again foreseen that there may be an opportunity for informal resolution but if not and a breach of the Code may have occurred then the matter will be referred to the Conduct Committee for determination. Again these proposals have been made to ensure the overall expedience of the process.
<b>5.4.9 - 5.4.22</b>	<b>Hearing Procedure</b>	These paragraphs have been incorporated into a new Section 3 entitled 'Hearing Panel Procedure Rules'. The existing arrangements have also been developed so as to incorporate the customs adopted by Fenland District Council in its arrangement and management of the proceedings of the conduct committee and is consistent with the requirements for ensuring a fair and balanced hearing takes place. This also incorporates a separate template Decision Notice for the Conduct Committee (Appendix 5).
<b>6</b>	<b>Appeals</b>	This paragraph has become new paragraph 4 and remains largely unchanged.

### 3. ASSOCIATED CONSTITUTIONAL AMENDMENTS

In order to give effect to and compliment the proposed revisions to Rule 9, there is a requirement for additional amendments to other sections of the Constitution. These are set out at Appendix 2 of this Report and can be summarised as follows:

- 3.1. Article 9 to be amended to incorporate reference to the membership, role and functions of the Conduct Committee and Hearing Panel.
- 3.2. Part 3, Table 2 to be amended to incorporate reference to the Hearing Panel within the overview of the Conduct Committee.
- 3.3. Part 3, Monitoring Officer - to be amended to confirm the governance surrounding a request for a dispensation.

### 4. TRANSPARENCY & GUIDANCE

It is intended that to further compliment the proposals set out within this report that a dedicated webpage will be developed where the following information will be published:

- 4.1. Article 9;
- 4.2. Rule 9;
- 4.3. Schedule of forthcoming meetings of the Conduct Committee and/or Hearing Panel;
- 4.4. Agendas and Minutes of past and forthcoming meetings of the Conduct Committee and/or Hearing Panel;

- 4.5. Decision Notices in relation to complaints determined by the Monitoring Officer in consultation with the Independent Person and the Conduct Committee;
- 4.6. Information relating to the composition of the Conduct Committee to include the Independent Person(s) and Co-Opted representatives;
- 4.7. Guidance on Making a Complaint (Appendix 6); and
- 4.8. Guidance for Members regarding the Hearing Panel Process (Appendix 7).

## **5. CONCLUSION**

The proposals set out in this Report and the associated appendices are designed to ensure that there is a clear and efficient process for managing and responding to conduct complaints which is consistent with the recommendations of the review and general best practice requirements. The support of the Conduct Committee is sought in recommending the proposed revisions and associated constitutional amendments to Full Council for approval.

## **RULE 9: PROCEDURE FOR RESPONDING TO CONDUCT COMPLAINTS AND HEARING PANEL PROCEDURE RULES**

### **1. INTRODUCTION**

- 1.1. Fenland District Council (“the Authority”) is responsible for receiving and determining conduct complaints for both District Councillors, and the Town and Parish Councillors within the District.
- 1.2. All members are required to conduct themselves in accordance with a locally agreed Code of Conduct. Fenland District Council’s Code can be found at Part 5 of Fenland District Council’s Constitution [\[insert link\]](#) and in all other cases on the websites of the relevant Town or Parish Councils.
- 1.3. Where it is considered that a Member has breached the Code of Conduct, this Procedure shall apply.
- 1.4. Where a particular number of working days has been specified for compliance with any given stage of this process, this is intended as an indication of best practice but may be varied with the consent of the Monitoring Officer where exceptional circumstances exist for example to take into account periods of unavailability resulting from illness or leave.
- 1.5. Any function of the Monitoring Officer in this procedure may be delegated to the Deputy Monitoring Officer at any time.
- 1.6. In this Procedure and the Conduct Committee Hearing Procedure, the following definitions shall apply:
  - 1.6.3. **Code of Conduct:** means the Code of Conduct for Members adopted by Fenland District Council to promote high standards of behaviour amongst the elected and co-opted members of the Council whenever they are acting in their capacity as a member of the Authority or giving the impression of acting as a representative of the Authority.
  - 1.6.4. **Conduct Committee:** Means the committee with authority to hear conduct complaints referred by the Monitoring Officer whose terms of reference are set out at [\[xxxx of the Constitution - insert link\]](#).
  - 1.6.5. **Independent Person:** The Independent Person is a lay person who has been appointed by a majority of all the Councillors on the District Council. The Independent Person is invited to attend all meetings of the Conduct Committee. Their views are sought and taken into consideration: (a) before the Monitoring Officer decides whether to investigate a complaint (b) before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution (c) before the Conduct Committee takes any decision on whether the Councillor’s conduct constitutes a failure to comply with the respective Code of Conduct.
  - 1.6.6. **Subject(s):** means the Councillor(s) who is/are the subject of the complaint(s).

### **2. PROCEDURE FOR DEALING WITH CONDUCT COMPLAINTS**

#### **2.1. Reporting Concerns & Confidentiality**

- 2.1.3. All complaints should be submitted in the prescribed form which can either be accessed on-line [*insert link*] or emailed/posted upon request to the Monitoring Officer. Completed forms should also be returned to the Monitoring Officer at Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ, or by email to [monitoringofficer@fenland.gov.uk](mailto:monitoringofficer@fenland.gov.uk).
- 2.1.4. Complaints will be acknowledged in writing within 5 working days of receipt and where necessary the Monitoring Officer will clarify any points of uncertainty as soon as possible and before any further action is taken.
- 2.1.5. In order to ensure that a fair process can be followed and subject to paragraph 2.1.7 details of the complaint together with the name of the complainant will be shared with the Subject concerned as soon as practicable after receipt (or where clarification is sought, as soon as possible after that). At that stage the Subject will be given 7 working days to provide an initial response to the concerns which the Monitoring Officer will take into account in determining what if any further action to take under this procedure.
- 2.1.6. The Monitoring Officer can obtain any other preliminary information as may be of assistance such as minutes of meetings, policy or procedural documents and published media.
- 2.1.7. Anonymous complaints will not be acted on unless there is a clear public interest to do so however, complainants can request that their identities remain confidential. Requests for confidentiality will be considered by the Monitoring Officer and the complainant will be informed in writing of the outcome before the complaint proceeds any further.
- 2.1.8. The Monitoring Officer will keep the Complainant, the Subject and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.
- 2.1.9. The existence and content of all complaints will remain strictly confidential and shall not be published, discussed or otherwise disclosed until a conclusion has been reached and unless it is a requirement of this or the hearing process (for example at an investigative interview or hearing) or the Subject waives this requirement by making the disclosure themselves.
- 2.1.10. Complainants can withdraw their complaint at any time during the process by informing the Monitoring Officer in writing. The Monitoring Officer does however reserve the right to pursue the issues giving rise to the complaint where it is considered to be in the interests of good governance to do so.

### **2.2. Initial Consideration of the Complaint**

- 2.2.3. The Monitoring Officer will consider the complaint and determine, in consultation with the Independent Person which of the following actions to take:
- No further action required;
  - Further action through information resolution;
  - Referral to the Police in any circumstance where there is evidence of potential criminal conduct;
  - Referral for investigation in accordance with paragraph 2.3 of this Procedure;

- Summary Resolution in accordance with paragraph 2.5 of this Procedure.
- 2.2.4. It is likely that no action will be taken in the following (non-exhaustive) circumstances:
- Where there is insufficient information upon which to base a decision;
  - A significant amount of time (typically more than 6 months) has elapsed since the events which are the subject of the complaint;
  - The issue complained of in relation to the particular Subject(s) have already been considered under this Procedure;
  - The complaint appears to be politically motivated, trivial, vexatious, tit for tat, repetitious or otherwise a general misuse of this Procedure;
  - The conduct occurred at a time when the Subject was not or could not have been considered to be acting in their official capacity (as defined by the Code of Conduct);
  - The complaint concerns someone who is no longer a Councillor; and
  - The complaint is essentially against the Council as a whole and should not be directed at an individual.
- 2.2.5. Where it is appropriate to take some action and depending on the nature of the concerns raised it may be possible to resolve complaints informally and without the need for formal determination and/or sanction. The view of both the complainant and the Subject will be sought and will most likely be appropriate in circumstances where the concerns raised are not in dispute and/or are not of a serious nature.
- 2.2.6. Where following informal action the complainant's concerns are not resolved, they may submit a request in writing for reconsideration by the Monitoring Officer. Where the Subject or Fenland District Council makes a reasonable offer of informal resolution but the person complaining is not willing to accept that offer, the Monitoring Officer will take account of this in deciding what if any further action to take. Where appropriate, the Monitoring Officer may again consider the options under paragraph 2.2.3 of this procedure.
- 2.2.7. Where a Police or other regulatory investigation is necessary, no further action will be taken by the Monitoring Officer until that procedure has been concluded and/or it is appropriate to do so. The Monitoring Officer has the power to make such a referral and must do so in all circumstances in which a criminal and/or regulatory offence may have occurred.
- 2.2.8. In all circumstances the Monitoring Officer will give a summary of the reasons for their decision in the form of a Decision Notice.

### **2.3. Referral for Investigation**

- 2.3.3. The Monitoring Officer, after consultation with the Independent Person, will take a decision as to whether a formal investigation is required and will take into account the following (non-exhaustive factors):
- Whether there is enough evidence to make a decision without the need for investigation;
  - Whether the allegations amount to a potential breach of the Code;
  - The seriousness of the allegations;
  - Whether it is in the public interest to investigate.

- 2.3.4. Where a formal investigation is required, the Monitoring Officer, in consultation with the Independent Person will determine the level and scope of the investigation.
- 2.3.5. The Investigating Officer may be an officer of Fenland District Council, another Council or an appropriate experienced external investigator.
- 2.3.6. The Monitoring Officer will inform the complainant and the subject(s) of the complaint of the proposed timescales of the investigation which will most likely involve interviewing them and other witnesses as well as reviewing any relevant paperwork. Unless exceptional circumstances exist every effort should be made to ensure that the investigation is completed within 3 months of the referral.
- 2.3.7. In the event of a material change of circumstances the Monitoring Officer in consultation with the Independent Person may terminate the investigation before it has concluded. Examples of when this may be appropriate are as follows:
- The Member has resigned (or not been re-elected) from the relevant Council, Town or Parish Council,
  - The Member is seriously ill, or
  - The Member has died.
- 2.3.8. If the Subject fails to respond to correspondence from the Investigating Officer the complaint will be progressed and concluded in the absence of their input. If the complainant fails to respond, the complaint will be treated as withdrawn subject to paragraph 2.1.10 above. All parties are encouraged to respond promptly to any correspondence in relation to the complaint and within any deadline set.
- 2.3.9. The Investigating Officer will prepare a draft report on the outcome of the investigation and will provide the complainant and Subject with a copy for review and comment within an agreed period.
- 2.3.10. The Investigating Officer will submit a final version of the report to the Monitoring Officer as soon as reasonably practicable once the deadline for providing comments in accordance with paragraph 2.3.9 has elapsed. The Investigating Officer will be expected to give their view of the evidence and whether or not a breach of the Code of Conduct has occurred.
- 2.3.11. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

#### **2.4. Consideration of the Investigation Report**

- 2.4.3. The Monitoring Officer will review the Investigating Officer's report in consultation with the Independent Person and will reach a determination as to what if any further action is required within 7 working days of receiving the Report.
- 2.4.4. Where the Investigating Officer concludes that there is no evidence of a breach of the Code and the Monitoring Officer and Independent Person are in agreement, the final report will be sent to the Complainant, the Subject

and the Clerk (if appropriate) with confirmation that no further action will be taken.

- 2.4.5. Where the Investigating Officer concludes that there is evidence of a breach of the Code and the Monitoring Officer and Independent Person are in agreement, they will then either seek a summary resolution or refer the matter for hearing by the Conduct Committee.

### **2.5. Summary Resolution**

- 2.5.3. The Monitoring Officer may consider that a complaint can be reasonably resolved without the need for a hearing. In that event they will consult with the Independent Person, the Chairman of the Conduct Committee and the complainant with a view to agreeing a fair outcome. Such outcomes include the Subject offering an apology, removing posts from social media, attending training and/or mediation.
- 2.5.4. If the Subject accepts and complies with the suggested resolution no further action will be taken.
- 2.5.5. Where the Subject refuses to accept the suggested resolution, the matter will be referred to the Hearing Panel of the Conduct Committee for a hearing.

### **2.6. Referral to the Hearing Panel**

- 2.6.3. If the Monitoring Officer considers that a summary resolution is not appropriate, or it is impossible to achieve, the matter will be referred to the Conduct Committee for a hearing to decide whether the Subject has failed to comply with the Code of Conduct and, if so, what if any action to take.

## **3. HEARING PANEL PROCEDURE RULES**

### **3.1. Attendance and Right to be Accompanied**

- 3.1.3. The Subject will be requested to attend the hearing and may choose to be accompanied and/or represented by a fellow Councillor, friend, colleague or legal representative ("the Representative"). The hearing will be arranged taking into account the availability of the Subject and their Representative(s) unless this is likely to cause unreasonable delay to the conclusion of the complaint.
- 3.1.4. The Complainant will be notified of the date of the hearing however, unless the Investigating Officer wishes to call them as a witness, there will be no requirement for them to attend.
- 3.1.5. An Independent Person must be present at the hearing and unless this will cause unreasonable delay to the conclusion of the complaint, this will normally be the same person that the Monitoring Officer has consulted throughout the process.
- 3.1.6. Where the subject of the complaint fails to attend the hearing the Hearing Panel may, having regard to any written representations:
- resolve to proceed with the hearing; or
  - adjourn the hearing to another date.

3.2. ***The Hearing***

3.2.3. *Order of Business*

- 3.2.3.1. Subject to paragraph 3.2.3.8 below, the order of business will be as follows:
- 3.2.3.2. Elect a Chairman (if either the Chairman or Vice-Chairman of the Conduct are not present);
- 3.2.3.3. Apologies for absence;
- 3.2.3.4. Declarations of Interest;
- 3.2.3.5. In the absence of the Subject, consideration as to whether to adjourn or to proceed with the hearing in accordance with paragraph 3.2.3.9 below;
- 3.2.3.6. Introduction by the Chairman of the persons present and participating in the hearing to include members of the Panel, the Independent Person, the Monitoring Officer, the Investigating Officer, the complainant, the subject of the complaint and any legal representatives;
- 3.2.3.7. To receive representations from the Monitoring Officer and/or the Subject as to whether any part of the hearing should take place in private and/or whether any documents (or parts thereof) should be withheld from the public/press in accordance with Schedule 12A of the Local Government Act 1972;
- 3.2.3.8. The Chairman may exercise their discretion and amend the order of the business where it is considered expedient to do so in order to ensure that a fair hearing takes place.
- 3.2.3.9. The Hearing Panel may resolve to adjourn the hearing at any time.

3.2.4. *Presentation of the Complaint*

- 3.2.4.1. The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points should be introduced at this stage in the process;
- 3.2.4.2. The Subject or their Representative may question the Investigating Officer and any witnesses called by them;
- 3.2.4.3. The Hearing Panel may question the Investigating Officer and any witnesses called by them.

3.2.5. *Presentation by the Subject of the Complaint*

- 3.2.5.1. The Subject of the complaint or their Representative presents their case and calls witnesses.
- 3.2.5.2. The Investigating Officer may question the Subject and any witnesses called by them. The Subject will normally be expected to answer questions on their own behalf rather than via the Representative.
- 3.2.5.3. The Panel may question the Subject and any witnesses called by them.

3.2.6. *Summing Up*

- 3.2.6.1. The investigating Officer sums up the complaint.
- 3.2.6.2. The Subject or their Representative sums up their response.

3.2.7. *Views/Submissions of the Independent Person*

- 3.2.7.1. The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented there has been a breach of the Code of Conduct.

### 3.2.8. Deliberations of the Hearing Panel

- 3.2.8.1. The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by the Monitoring Officer where required) to consider whether or not the Subject has failed to comply with the Code of Conduct.
- 3.2.8.2. The Independent Person may retire with the Hearing Panel and contribute to the discussion but will not be a decision maker.
- 3.2.8.3. The Hearing Panel may at any time reconvene the hearing in order to seek additional evidence from the Investigating Officer, the Subject and/or their witnesses.
- 3.2.8.4. If the Hearing Panel require additional information which cannot be obtained by the persons present at the hearing they may resolve to adjourn and issue directions specifying what they require from whom. Any information requested must not have the effect of introducing new points.
- 3.2.8.5. Where the hearing is adjourned in accordance with paragraph 3.2.8.4 above:
- 3.2.8.6. any additional information provided will be copied to the Investigating Officer, the complainant and the Subject within 5 working days of the reconvened hearing; and
- 3.2.8.7. at that hearing, there will then be an opportunity for each of the parties to make verbal or written representations in relation to the additional information. Where appropriate the Hearing Panel will also provide an opportunity for the parties to ask questions of each other and sum up their position in relation to the additional information before again retiring to deliberate.

### 3.3. **The Decision**

- 3.3.3. The Hearing Panel will reconvene the hearing at the conclusion of their deliberations and the Chairman will announce whether or not on the facts found, it is considered that there has been a breach of the Code of Conduct.
- 3.3.4. Where the Hearing Panel finds that there has been a breach of the Code of Conduct the Chairman will invite the Investigator, the Subject, the Independent Person, and the Monitoring Officer to make any representations as to whether or not any sanctions should be applied and if so, what form they should take.
- 3.3.5. When deciding whether to apply one or more sanctions, the Hearing Panel will ensure it is reasonable and proportionate to do so. The Hearing Panel will consider the following questions along with any other relevant circumstances or factors specific to the local environment to include (but not exhaustively):
- What was the subject of the complaint's intention and did they know they were failing to follow the Code of Conduct;
  - Did the subject of the complaint receive advice from officers before the incident and was that advice acted on in good faith;
  - Has there been a breach of trust;
  - Has there been financial impropriety e.g. improper expense claims or procedural irregularities;

- What was the result/impact of failing to comply with the Code of Conduct;
  - How serious was the incident;
  - Does the Subject accept that they were at fault;
  - Did the Subject apologise to the complainant or other relevant persons;
  - Has the subject of the complaint previously been reprimanded or warned for similar misconduct within the last 12 months;
  - Has the Subject previously breached the Code of Conduct within the last 12 months;
  - Is there likely to be a repetition of the incident.
- 3.3.6. Having heard the representations of the Independent Person, the Subject and the Monitoring Officer, the Hearing Panel will adjourn and deliberate in private to reach a decision as to the sanctions to be applied. The Hearing Panel may be accompanied by the Monitoring Officer and the Independent Person who again may contribute to the discussion but will not take part in the decision.
- 3.3.7. The Hearing Panel will make its decision on the balance of probabilities based on the evidence before it at the hearing.
- 3.3.8. Where there is more than one complaint, the Hearing Panel will set out the reasons for their decision in relation to each aspect but may impose a separate or collective sanction or recommendation.
- 3.3.9. If evidence presented to the Hearing Panel highlights other potential breaches of the Code of Conduct then the Chairman will outline the concerns identified and recommend that the matter is referred to the Monitoring Officer as a new complaint.

### **3.4. *Announcement of the Decision***

- 3.4.3. The Hearing Panel will reconvene the hearing and the Chairman will announce:
- 3.4.4. the decision as to whether or not the Subject has failed to comply with the Code of Conduct and the principal reasons for the decision;
- 3.4.5. the sanctions (if any) to be applied;
- 3.4.6. the recommendations (if any) to be made to the relevant authority or Monitoring Officer;
- 3.4.7. that there is no right of appeal against the Hearing Panel's decision.

### **3.5. *Public Record***

- 3.5.3. The Monitoring Officer will arrange for the Decision Notice to be published with the Minutes on the Council's website.

### **3.6. *Range of Possible Sanctions***

- 3.6.3. Where the Hearing Panel determines that the Subject has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied:
- Report its findings to Full Council for information;
  - Issue a formal Letter of reprimand;
  - Recommend to the Subject's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that

they be removed from any or all Committees or Sub-Committees of the Council;

- Recommend to the Leader of the Council that the Subject be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to Council to remove the Subject from all outside appointments to which they have been appointed or nominated by the authority;
- Recommend to Council that it withdraws facilities provided to the Subject by the Authority such as a computer, website and/or email and internet access;
- Recommend to the Council that it excludes the Subject from the Council's office or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- Offer additional training for the Subject.
- Publication of formal notification of breach in a newspaper circulating in the area.

- 3.6.4. The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances however, this Hearing Procedure should be read in conjunction with the legislation as it exists at the time its decisions are taken and where additional sanctions are prescribed by law, they will be available to the Hearing Panel as if they formed part of this Procedure. The Monitoring Officer will then make the necessary arrangements to amend the Hearing Procedure at the next scheduled meeting of Full Council.

#### 4. APPEALS

- 4.1. There are no direct rights of appeal against the decisions of the Monitoring Officer or the Conduct Committee. If the complaint has not been resolved to the satisfaction of the complainant they are entitled to raise the issue with the Local Government Ombudsman.

## CONSTITUTIONAL AMENDMENTS REQUIRED TO BRING REVISED CODE & PROCEDURE INTO EFFECT

### ARTICLES

#### ARTICLE 9 – CONDUCT COMMITTEE & HEARING PANEL

##### 1. CONDUCT COMMITTEE

1.1. The Council will establish a Conduct Committee the membership of which shall as far as practicable be politically proportionate.

##### 1.2. Membership

1.2.1. The Conduct Committee shall comprise of 5 elected Councillors all of whom will be required to undertake relevant training

1.2.2. The Committee will appoint, at its first meeting following the annual meeting of the Council, its Chairman and Vice-Chairman for the forthcoming year.

1.2.3. The Conduct Committee shall be entitled to co-opt up to two representatives from Town or Parish Councils from within the District who may sit with the Committee and consider matters before it. They shall have the right to speak and engage with the debate of the committee however they do not have a right to vote.

1.2.4. The Council's designated Independent Person shall sit alongside the Conduct Committee and any Hearing Panel to offer advice in a non-voting capacity. Members must take account the views of the Independent Person in reaching decisions.

1.2.5. The Conduct Committee will be considered to be quorate where 3 or more members are present and Rule 24.3 of the Council's Standing Orders will not apply to Rule 7 in this context.

##### 1.3. Role and Functions

1.3.1. The Conduct Committee will have the following roles and functions in respect of the District Council and its Members and Town and Parish councils and their Members:

- promoting and maintaining high standards of conduct by Members;
- assisting Members and co-opted Members to observe their authority's Codes of Conduct;
- advising the Council on the adoption or revision of a Code of Conduct;
- monitoring the operation of the Codes;
- advising, training or arranging to train members and co-opted members on matters relating to the Code;
- To make recommendations to the Council on the appointment of its Independent Person(s); and

## **Appendix 2**

- To have oversight of Parish and Town Council's Codes of Conduct and Registers of Interests and authority to hear complaints relating to town or parish councillors.
- 1.3.2. The Monitoring Officer, in consultation with the Chairman of the Conduct Committee and the Independent Person, may issue dispensations to any member in respect of statutory and non-statutory disclosable interests. The Conduct Committee will receive a report on such cases at the next available meeting.
- 1.3.3. The Chairman of the Conduct Committee will be able to attend meetings of the full Council to present reports, answer questions and respond to motions on the work of the Committee in accordance with the appropriate provisions of the Rules of Procedure.

## **2. HEARING PANEL**

- 2.1. Whenever necessary the Chairman or Vice-Chairman of the Conduct Committee shall appoint a Sub-Committee in consultation with the Monitoring Officer for the purpose of considering and determining conduct complaints ("Hearing Panel").

### **2.2. Membership**

- 2.2.1. The Hearing Panel shall comprise three members of the Conduct Committee, including either the Chairman or Vice-Chairman all of whom must be present for the meeting to be quorate.
- 2.2.2. The membership of the panel shall, as far as practicable, be politically proportionate.
- 2.2.3. The Council's designated Independent Person or Deputy shall sit alongside the Hearing Panel to offer advice in a non-voting capacity.
- 2.2.4. Where the complaint relates to a Town or Parish Councillor the co-opted representatives will also be invited to sit alongside the Hearing Panel to offer advice in a non-voting capacity.

### **2.3. Role and Functions**

- 2.3.1. The Hearing Panel will have the following roles and functions in respect of members of the District, Town and Parish councils and shall perform these in accordance with Rule 9 of the Constitution:
- Hearing and determining complaints referred by the Monitoring Officer;
  - Issuing appropriate sanctions when it has determined that the subject of a complaint has been found to have breached the Code of Conduct.

## Appendix 2

Decision Making	Functions	Delegation of Functions
Conduct Committee	The promotion and maintenance of high standards and conduct within the Council,  To advise the Council on the adoption or revision of its Code of Conduct for Members.  To determine any complaints of a breach of The Members' Code of Conduct via the Sub-Committee Hearing Panel.	As defined in Tables 4 and 5 of this Part of the Constitution.

### **PART 3 - MONITORING OFFICER**

Paragraph 47B to be amended to read as follows:

To consider and grant requests for Dispensations from section 31 of the Localism Act 2011 in accordance with paragraph 1.3.2 of Article 9.

## MEMBER CONDUCT: COMPLAINT FORM

### 1. BACKGROUND INFORMATION

Please provide us with your name and contact details:

<b>Title:</b>	
<b>First Name:</b>	
<b>Last Name:</b>	
<b>Address:</b>	
<b>Contact Number</b>	
<b>Email Address</b>	
<b>Preferred form of contact:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint. However, the following people will be aware that you have made this complaint:

- the Member(s) you are complaining about;
- the Monitoring Officer of the authority;
- the parish clerk (if applicable);
- The Independent Person; and
- The Chairman/Vice-Chairman of the Conduct Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it.

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete Section 3 of this form however, please be aware that the Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

## 2. Your Complaint

The **Conduct Procedure Rules** set out in the Council's Constitution together with Fenland District Council's **Guidance: Submitting a Conduct Complaint** set out the process the Monitoring Officer will follow in order to respond to your complaint. These are available on the Council's website at [\[insert link\]](#) or on request to the Monitoring Officer.

Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their authority:

TITLE	FIRST NAME	LAST NAME	AUTHORITY

Please explain in this section (or on separate sheets) what the Member has done which you believe falls below the standards expected of them.

It is important that you provide all the information you wish to have taken into account when a decision is made about whether to take any action on your complaint. For example:

- If you are complaining about one or more Members you should clearly explain what each individual person has done;
- You should consider whether the Member was acting or you perceived they were acting in their official capacity as a Councillor or as a normal member of the public. This process only applies to Members acting in their official capacity.
- You must set out which of the General Obligations contained in the Member's Code of Conduct have been breached;
- You should be specific wherever possible about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.
- You should provide confirmation of the outcome you are seeking.

### Appendix 3

Please provide us with the details of your complaint. Continue on a separate sheet if necessary:

### 3. CONFIDENTIALITY

## Appendix 3

Only complete this next section if you are requesting that your identity is kept confidential.

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that you will suffer significantly by physical or mental detriment.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The request will be considered alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint. However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to (for example if we are obliged to refer the matter to the Police for investigation).

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

## 4. ADDITIONAL HELP

We can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible. Please return this form to the Monitoring Officer: *[insert address, and email address and phone number]*.

## 5. DECLARATION

I confirm that the contents of this Form are true to the best of my knowledge and belief and that I have read and understood the Guidance: Submitting a Complaint.

**Appendix 3**

<b>Signed:</b>	.....
<b>Dated:</b>	.....

## INITIAL ASSESSMENT DECISION NOTICE

### BACKGROUND

**SUBJECT MEMBER:** *[Insert]*

#### 1. COMPLAINT

- 1.1. On *[date]* the Monitoring Officer received a formal complaint from *[insert]* (“the Complainant”), alleging that *[insert]* (“the Subject Member”) had breached the Fenland District Council Code of Conduct.
- 1.2. The Complaint relates to *[summary of complaint]*.
- 1.3. The Subject Member was invited to comment on the complaint with a view to establishing whether or not the concerns could be informally resolved. The Complainant has confirmed that they do not consider their concerns to be capable of informal resolution and an initial assessment of the complaint has therefore been completed by the Independent Person in consultation with the Monitoring Officer.

#### 2. EVIDENCE CONSIDERED

- 2.1. The following documents and information were considered for the purposes of initial assessment of this complaint:-
  - 2.1.1. Complaint sent by *[insert]* on *[date]*;
  - 2.1.2. Response from the Subject Member *[and associated attachments]* sent by *[insert]* on *[date]*;
  - 2.1.3. Confirmation by the Complainant that the complainant could not be informally resolved sent by *[insert]* on *[date]*; and
  - 2.1.4. The Council’s Members’ Code of Conduct and Procedure Rules.

#### 3. JURISDICTION

- 3.1. For a complaint to be considered in connection with the Member’s Code of Conduct, the following test must be satisfied:
  - 3.1.1. the complaint was made against a person who, at the time the alleged action took place, was a member of *[Fenland District Council/relevant Town/Parish Council]*; and
  - 3.1.2. the Subject Member had signed up to the Members’ Code of Conduct in force at the time the alleged action took place; and

- 3.1.3. the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.
- 3.2. The Independent Person [or Deputy Independent Person] has concluded that *[all three limbs of this test are satisfied in this matter OR state which limbs are fulfilled and where they are unfulfilled the overall impact on the management of the complaint]*.

## 4. INITIAL ASSESSMENT

### 4.1. The Complaint

- 4.1.1. The Independent Person [or Deputy Independent Person] with advice from the Monitoring Officer as appropriate have considered whether the actions of the Subject Member described in paragraph 1.2 above constitute a breach of the following provisions of the Members' Code of Conduct:
  - 4.1.1.1. *[set out specific breaches and relevant paragraphs of the Code of Conduct for each element of the Complaint]*.
- 4.1.2. The Complaint and Subject Member's response can be summarised as follows:
  - 4.1.2.1. The First Complainant alleges that the Subject Member *[insert detail]*.
  - 4.1.2.2. The Subject Member has responded to confirm that *[insert detail]*.
- 4.1.3. The Independent Person having considered all of the available evidence with the pertinent factors having been identified as follows:
- 4.1.4. As to the question of whether *[summarise key considerations for each allegation]*.
- 4.1.5. In conclusion the Independent Person's view is that:
  - 4.1.5.1. In respect of the allegation of the Subject Member having failed to *[identify alleged breach of Code and conclusion for each accusation]*.
- 4.1.6. As a consequence of the above, the Independent Person advised that in their opinion there was *[no apparent breach of the Code of Conduct and therefore no further action should be taken or that the Code may have been breached in respect of the following allegations - list]*.

- 4.1.7. The Monitoring Officer [or Deputy Monitoring Officer] concurs and therefore *[no further action will be taken or the allegations will be referred for investigation/to the Conduct Committee for determination. Where referral is made for investigation specify the scope and expectations with regard to who will conduct it i.e. internal/external investigation].*

**Approved By:** **[Insert] Independent Person [or Deputy Independent Person]**  
**[Insert] Monitoring Officer [or Deputy Monitoring Officer]**

**Dated:** **[Insert]**



## CONDUCT COMMITTEE HEARING PANEL: DECISION NOTICE

### INTRODUCTION

**Subject Members:**

**Complainant:**

**Chairman:**

**Panel Members:**

**Independent Person:**

**Monitoring Officer:**

**Investigating Officer:**

**Clerk:**

**Date:**

### SUMMARY OF THE ALLEGATION

On [date], a complaint was received by the Monitoring Officer about the conduct of Councillor [insert] in relation to [insert description].

Following the initial consideration of the complaint by the Monitoring Officer and Independent Person on [date], it was determined that [an investigation should be commissioned to consider all of the issues raised/the matter could proceed straight for consideration by the Hearing Panel].

[The investigation was carried out externally by [Insert] and concluded that there had been a breach of the code. A hearing was therefore arranged and the Hearing Panel tasked with determining whether or not there has been a breach of the Code and, if so, what sanction is required].

### RELEVANT SECTIONS OF THE CODE OF CONDUCT

The investigation report indicated a breach of the following general obligations of the Code of Conduct:

- *[Rule 3.1 - Failure to treat others with respect;*
- *Rule 3.2(a) - Conduct in breach of UK Equalities legislation;*
- *Rule 3.2(b) - Conduct which amounts to bullying of any person;*
- *Rule 3.2(c) - Intimidation or attempted intimidation of any person who is or is likely to be [a complainant, a witness, involved in the administration of any investigation or proceedings in relation to an allegation that a Member (including the Subject Member) has failed to comply with the Code of Conduct;*
- *Rule 3.2(d) - Conduct which compromises or is likely to compromise the impartiality of those who work for or on behalf of Fenland District Council;*
- *Rule 3.2(e) - Conduct which could reasonably be regarded as bringing the Subject Member's office or Fenland District Council into disrepute;*
- *Rule 4.1 - Disclosure of information given to the Subject Member in confidence by anyone or information acquired by the Subject Member which they believe, or ought reasonably to be aware, is of a confidential nature and no lawful exemptions apply;*
- *Rule 4.2 - Preventing access to information by any person who is entitled to it by law;*
- *Rule 5.1 - Use or attempted use by the Subject of their position as a member improperly to confer on, or secure for themselves or any person an advantage or disadvantage;*
- *Rule 6.1 - Failing to act in accordance with Fenland District Council's reasonable requirements when using or authorising the use by others of its resources;*
- *Rule 6.1 - Failing to ensure that Fenland District Council's resources are not used improperly for political purposes;*
- *Rule 6.2 - Failing to have regard to Fenland District Council's Code of Publicity.]*

### PRELIMINARY MATTERS DETERMINED BY THE HEARING PANEL

*[Set out the detail of any preliminary issues considered and the conclusion reached together with any reasons given].*

### SUMMARY OF EVIDENCE CONSIDERED AND REPRESENTATIONS MADE

#### **Presentation of the Complaint**

The Investigating Officer ("IO") summarised the content of his investigation report and in particular drew the Panel's attention to *[insert detail]*.

The witness *[insert]* informed the Panel that *[insert detail]*.

#### **Presentation of the Response**

Councillor *[insert]* gave evidence as to the facts and in particular *[insert detail]*.

The witness *[insert]* informed the Panel that *[insert detail]*.

#### **Points Covered During Questioning**

The following matters were discussed during questioning *[insert]*.

**Summing Up by IO**

The IO summed up to confirm that *[insert]*.

**Summing Up by Subject Member**

Cllr *[insert]* contended that *[insert detail]*.

**The Views of the Independent Person**

The Independent Person (IP) expressed their view that *[insert]*.

**Advice Given by the Monitoring Officer**

The Monitoring Officer, following a request for advice confirmed that *[insert]*.

**DECISION AND FINDINGS**

The Panel confirmed that it had listened carefully to the Investigating Officer, Councillor *[insert]*, *[their representatives and witness]* and the views of the Council's Independent Person.

The Panel confirmed that it had decided *[unanimously/by majority]* that *[it agreed/disagreed]* with the conclusions of the investigation report. In particular that *[insert detail]*.

**REPRESENTATIONS AS TO SANCTIONS**

**Investigating Officer**

The Investigating Officer shared their opinion that *[insert]*.

**Subject Member**

Councillor *[insert]* contended that *[insert]*.

**Independent Person**

The Independent Person offered their view that *[insert]*.

**Monitoring Officer**

The Monitoring Officer advised that *[insert detail]*.

**SANCTIONS & POST-HEARING ACTIONS**

## Appendix 5

The Panel confirmed again that it had considered the representations of all concerned regarding the form of sanction that should be imposed.

The Panel's decision was to *[insert detail]*.

## GUIDANCE: MAKING A CONDUCT COMPLAINT

### INTRODUCTION

Complaints that a Fenland District, Town or Parish Councillor may have breached the **Code of Conduct**, are dealt with by the Monitoring Officer in consultation with the Council's Independent Person.

The **Code of Conduct** can be found on Fenland District Council's website at Part 5 of the Constitution [[insert link](#)].

Please note that the Monitoring Officer can only deal with complaints about the behaviour of a Councillor covered by the **Code of Conduct** and not when they are 'off-duty' or acting in their private/personal capacity. Where the Monitoring Officer does not consider this to be the case they will be obliged to confirm that they are unable to progress your complaint.

### MAKING A COMPLAINT

If you wish to make a complaint, please contact the Monitoring Officer either by email at [monitoringofficer@fenland.gov.uk](mailto:monitoringofficer@fenland.gov.uk) or by post at Fenland District Council, Fenland Hall, County Road, March, PE15 8NQ.

You will be asked to complete a **Conduct Complaint Form** in order for your complaint to be processed and this is available from the Council's website [[insert link](#)] or on request from the Monitoring Officer.

The Conduct Complaint Form contains different sections which are designed to assist in ensuring that all relevant information is included. You must provide as much information as possible about how you think the General Obligations of the **Code of Conduct** have been breached together with any supporting evidence such as extracts from social media and the names and contact details of anyone else who may have witnessed the behaviour you are complaining about.

Examples of possible breaches of the General Obligations include (but are not limited to):

- behaviour which is disrespectful or could amount to bullying or discrimination.
- behaviour which compromises the impartiality of people who work for or on behalf of Fenland District Council or which has or is capable of damaging the reputation of the Council or Councillor.
- Disclosure of information which is confidential. Use of position to improperly obtain an advantage or disadvantage for themselves or someone else.

If you do not include enough information the Monitoring Officer will contact you to ask for more. If you do not provide it or there is simply not enough information on which to make an initial assessment the Monitoring Officer will be obliged to confirm that they are unable to progress your complaint.

You are required in the **Conduct Complaint Form** to provide the Monitoring Officer with your name and contact address and/or email address so that your complaint can be acknowledged and you can be kept informed as it progresses.

The Monitoring Officer will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

If you are concerned about your name being shared with the Councillor who is the subject of your complaint you can request that it remains confidential and your reasons for that within the **Conduct**

## Appendix 6

**Complaint Form.** In that instance, the Monitoring Officer will not disclose your name and address without prior consent. However, the Monitoring Officer has to balance your request against the need to ensure that a fair process is followed which in some instances will require an understanding of who has made the complaint.

If the Monitoring Officer does not consider your reasons justify anonymity or for your name to remain confidential, you will be informed and given the opportunity to withdraw if you do not wish to proceed without it.

All complaints will be treated as confidential unless and until the Monitoring Officer publishes a Decision Notice following the initial assessment of your complaint or, if it is not resolved at that stage, where a meeting of the Hearing Panel is required. You should not therefore disclose the details of your complaint to anyone other than your close friends and family members (on the understanding that they will also keep the details confidential) and/or anyone who may be able to provide information to the Monitoring Officer and/or Investigator in support of your concerns. Equally the Monitoring Officer, Independent Person and Investigating Officer will also keep the details of your complaint confidential from members of the public during the initial assessment and investigation. Details of your complaint will therefore only be published once a conclusion has been reached or unless the subject of your complaint waives this requirement.

### Initial Assessment

The Monitoring Officer will acknowledge your complaint in writing within 5 working days of receiving it. Where an email address has been provided the Monitoring Officer will use this unless you have specifically requested correspondence by post.

Unless exceptional circumstances exist, the Monitoring Officer will always inform the Councillor that a complaint has been received by providing them with a copy of the **Conduct Complaint Form** (with any personal details excluded if a request for confidentiality/anonymity has been agreed). They will then be provided with a period of 7 working days (or more depending on the complexity of the complaint and the amount of information to consider) to provide their comments. The Monitoring Officer will also notify the Chairman (or Vice Chairman if the complaint relates to the Chairman) that a complaint has been received and the nature of it.

Once the Monitoring Officer has received the Councillor's comments they will share them with you and ask you to consider whether you are satisfied with the response and/or if the complaint is capable of an 'informal resolution'. This means that your complaint will be concluded outside the formal process and might be appropriate where for example the Councillor apologises or agrees to remove an offending post or comment from social media.

If you confirm that your complaint is not capable of being resolved informally then the Monitoring Officer will complete an initial assessment of your complaint in consultation with the Independent Person ("the Initial Assessment").

As part of the Initial Assessment the Monitoring Officer and Independent Person will take into account the following factors in deciding what if any further action is required in relation to your complaint:

- Whether there is insufficient information upon which to base a decision;
- Whether a significant amount of time (typically more than 6 months) has elapsed since the events which are the subject of the complaint;
- Whether the issue complained of in relation to the particular Subject(s) have already been considered under this Procedure;
- Whether the complaint appears to be politically motivated, trivial, vexatious, tit for tat, repetitious or otherwise a general misuse of this Procedure;
- Whether the conduct occurred at a time when the Subject was not or could not have been considered to be acting in their official capacity;
- Whether the complaint concerns someone who is no longer a Councillor; and

## Appendix 6

- Whether the complaint is essentially against the Council as a whole and should not be directed at an individual.

Where it is considered that there may have been a breach of the Code the Chairman of the Conduct Committee (or Vice Chairman if appropriate) and Independent Person will decide, in consultation with the Monitoring Officer whether or not an investigation is required and if so, will put in place arrangements to appoint an investigator (who may or may not be an employee of Fenland District Council) and agree which of your concerns will be investigated. Where no further investigation is required, your complaint will be referred for consideration by the Hearing Panel.

The Monitoring Officer will write to you to let you know what the Pre-Sift decided and, where your complaint has been dismissed, the reasons for that.

### **Possible Outcomes**

If the Initial Assessment identifies that a breach of the **Code of Conduct** may have occurred your complaint may be further investigated and/or referred to the Conduct Committee for determination.

If the Initial Assessment identifies that the issues set out in the **Conduct Complaint Form** are vexatious, trivial or tit-for-tat or that it would be otherwise inappropriate to progress your complaint then no further action will be taken.

## Investigation

Once an Investigator has been identified they may contact you and any witnesses to discuss your complaint and to obtain any additional information they might need. They will also contact the Councillor and any witnesses they might have.

The investigation will be completed as soon as reasonably possible and the Investigator will then prepare a draft Report which will be shared with you and the Councillor for any final comments. Once these have been considered the final report will be sent to the Monitoring Officer and the Investigator will confirm whether or not in their view there has been a breach of the **Code of Conduct**.

### **Possible Outcomes**

Where the Investigator concludes that there has not been a breach of the **Code of Conduct** and the Chairman of the Conduct Committee, Independent Person are in agreement, no further action will be taken.

Whether the Investigator concludes that there has been a breach of the **Code of Conduct** and it is not possible to reach a summary resolution, the Monitoring Officer will arrange a Conduct Hearing where a final decision will be taken.

## Conduct Hearing

The Monitoring Officer will put in place arrangements for a meeting of the Hearing Panel as soon as possible. This can take up to a month depending on the availability of everyone who is required to attend and the time required to prepare and publish the Agenda pack.

The Monitoring Officer will let you know the date of the hearing once it has been agreed. They may well have asked you if there are any dates that you would not be available and these will be taken into

## Appendix 6

account when making the arrangements if the Investigator has indicated that they would like you to be there. Otherwise there is no requirement for you to attend unless you would like to in which case you can observe the hearing but you will not usually be invited to speak.

The Hearing Panel will be made up of 3 Councillors of the Conduct Committee (“the Hearing Panel”) and the Monitoring Officer will let you know who they are. You should let the Monitoring Officer know as soon as possible if you think there might be a conflict of interest for instance if you are a close friend, family member or business colleague of one of the Councillors listed.

The Council must make sure that the Agenda pack is available online or for inspection at its offices for at least 5 working days before the meeting takes place. The Agenda pack will contain a copy of your **Conduct Complaint Form** which unless agreed will contain your name and that of any witnesses (but not yours or their address/contact details) together with the Councillor’s response, the view of the Pre-Sift and where applicable, the Investigator’s Report.

Meetings of the Hearing Panel usually take place in public and the Agenda and Minutes will be published on the Council’s website. There are some exceptions to this but they are limited so it is important that the Monitoring Officer is aware of any concerns you might have about your name and the details of your complaint being published as soon as possible. If it has already been agreed that your name will remain confidential then it will not be published however if you think you could still be identified from the details of the complaint you should again discuss this with the Monitoring Officer. You can find examples of previous Minutes and Decisions on the Council’s website [*insert link*].

The Hearing Panel will follow the procedure set out in the **Conduct Procedure Rules** which are available to view on the Council’s website [*insert link*]. A summary of the hearing procedure will also be included in the Agenda pack.

The sanctions available to the Hearing Panel are as follows:

- Report its findings to Full Council for information;
- Issue a formal Letter of reprimand;
- Recommend to the Subject’s Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to Council to remove the Subject from all outside appointments to which they have been appointed or nominated by the authority;
- Recommend to Council that it withdraws facilities provided to the Subject by the Authority such as a computer, website and/or email and internet access;
- Recommend to the Council that it excludes the Subject from the Council’s office or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- Offer additional training for the Subject.
- Publication of formal notification of breach in a newspaper circulating in the area.

*NB: A Motion of Censure, if agreed, is in basic terms an expression of strong disapproval or harsh criticism.*

### **Possible Outcomes**

If the Hearing Panel decides that there has been a breach of the **Code of Conduct** they will then consider and confirm what if any sanctions should be applied.

If the Hearing Panel decides that there has not been a breach of the **Code of Conduct** the hearing will conclude and no further action will be taken.

### CONCLUSION

If you decide to make a complaint then unless it is capable of informal resolution, you should expect that it could take up to 6 months to conclude however everyone involved in the process will make every effort to ensure that your concerns are addressed at the very earliest opportunity.

Conduct complaints are a matter of public interest and the Council is therefore required to publish information relating to the complaint and where relevant the decision of the Conduct Committee and Hearing Panel. It is generally also considered that the full circumstances of the complaint (including the identity of the person complaining) should be made available to the Councillor in order to ensure the overall fairness of the process. For example it may be that knowing your identity will add some context that will enable the Councillor to provide an explanation that you are able to accept or which will assist them in defending their actions.

If you have any questions or concerns at any stage in the process you can contact the Monitoring Officer who will go through the options with you. The Monitoring Officer will make sure that you are kept up-to-date at the conclusion of each stage of the process and you must keep the Monitoring Officer informed if you have any concerns or additional information.

There is no right of appeal against a decision taken by the Monitoring Officer, Pre-Sift, Conduct Committee or Hearing Panel however if you have any concerns at the conclusion of the process you can raise these with the Local Government Ombudsman at <https://www.lgo.org.uk/make-a-complaint>.

## MEMBER GUIDANCE: HEARING PANEL PROCESS

### INTRODUCTION

This Guidance has been prepared to provide an overview of the Hearing Procedure Rules for members of the Hearing Panel of the Conduct Committee.

The Guidance should be read in conjunction with the **Terms of Reference for the Hearing Panel, the Members' Code of Conduct and the Hearing Procedure Rules**.

### OVERVIEW OF HEARING PROCEDURE

PRELIMINARY MATTERS	
1	The Chairman of the Panel will introduce the members of the Panel, the Independent Person, the Subject, the Investigating Officer, the complainant if present and any officers.
2	Declarations of Interest will be taken.
3	The Chairman will explain that the hearing will normally be held in public unless the Panel exercises its discretion to exclude the public from all or part of the hearing in accordance with Schedule 12A the Local Government Act 1972. The Monitoring Officer will confirm whether there has been a request for the hearing, or any part of it to be held in private. The Panel will determine that request.
4	The Chairman will explain the reason for the meeting and outline the procedure to be followed.
5	The Chairman may choose to vary this procedure if they are of the opinion that such a variation is necessary in the interests of fairness.
6	The Chairman will confirm that all those involved understand the procedure to be followed and ask if there are any preliminary issues which anyone wishes to raise before the Hearing begins.
7	If any procedural issues are raised, the Panel will hear representations on them and determine them before beginning the hearing.
8	If the Subject is not present at the start of the hearing, the Panel will consider any reasons given by them for their non-attendance. If the Panel is satisfied that there is good reason for their non-attendance, it may adjourn to another date. Where no reason has been given and the Panel is satisfied that the Subject has been properly notified of the hearing, it will proceed in his/her absence.

<b>HEARING</b>	
<b>9</b>	The Investigator will be invited to summarise his/her report and findings and make any representations about any pre-hearing submission of the Subject. The Investigator may call any witnesses, including the complainant.
<b>10</b>	The Subject will be invited to make representations in support of the facts concerned. The Subject may call any witnesses in support of the facts. Character witnesses will not be permitted.
<b>11</b>	The Panel has the discretion to question any of the parties as they see fit. The Independent Person or the Monitoring Officer may question any of the parties at the discretion of the Chairman.
<b>12</b>	The Subject and the Investigator will be given the opportunity to make closing statements if they wish to do so.
<b>13</b>	The Chairman will invite the Independent Person to share their opinion as to whether or not they consider there has been a breach of the Code of Conduct.
<b>14</b>	
<b>THE DECISION</b>	
<b>15</b>	The Chairman will then announce to all present at the Hearing the Panel's decision as to whether or not the Subject has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
<b>16</b>	If the Panel decides that the Subject has not failed to follow the Code of Conduct, the hearing will be concluded.
<b>17</b>	If the Panel decides that the Councillor has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator, the Subject, the Independent Person and the Monitoring Officer, as to: <p>(a) whether or not the Panel should impose a sanction; and</p> <p>(b) what form of sanction(s) is/are appropriate.</p>
<b>18</b>	The Panel, the Independent Person and the Monitoring Officer will retire to consider the sanctions in private. The Monitoring Officer may be requested to give legal advice or clarify any of the evidence as required. Neither the Monitoring Officer or the Independent Person will participate in the decision.
<b>19</b>	The Panel will announce its decision in public at the conclusion of the hearing and will issue a full written decision including reasons within 10 working days of the hearing. The Monitoring Officer will make arrangements for the Decision Notice to be published on the Councils website.

### SANCTIONS

When deciding whether to apply one or more sanctions, the Hearing Panel will consider the following questions along with any other relevant circumstances or factors specific to the local environment to include (but not exhaustively):

- What was the subject of the complaint's intention and did they know they were failing to follow the Code of Conduct;
- Did the subject of the complaint receive advice from officers before the incident and was that advice acted on in good faith;
- Has there been a breach of trust;
- Has there been financial impropriety e.g. improper expense claims or procedural irregularities;
- What was the result/impact of failing to comply with the Code of Conduct;
- How serious was the incident;
- Does the Subject accept that they were at fault;
- Did the Subject apologise to the complainant or other relevant persons;
- Has the subject of the complaint previously been reprimanded or warned for similar misconduct within the last 12 months;
- Has the Subject previously breached the Code of Conduct within the last 12 months;
- Is there likely to be a repetition of the incident.

The following sanctions may be imposed:

- Report its findings to Full Council for information;
- Issue a formal Letter of reprimand;
- Recommend to the Subject's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to Council to remove the Subject from all outside appointments to which they have been appointed or nominated by the authority;
- Recommend to Council that it withdraws facilities provided to the Subject by the Authority such as a computer, website and/or email and internet access;
- Recommend to the Council that it excludes the Subject from the Council's office or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- Offer additional training for the Subject.
- Publication of formal notification of breach in a newspaper circulating in the area.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances however, this Hearing Procedure should be read in conjunction with the legislation as it exists at the time its decisions are taken and where additional sanctions are prescribed by law, they will be available to the Hearing Panel as if they formed part of this Procedure. The Monitoring Officer will then make the necessary arrangements to amend the Hearing Procedure at the next scheduled meeting of Full Council.

Agenda Item No:	7	
Committee:	Conduct Committee	
Date:	3rd July 2019	
Report Title:	Appointment of Independent Person	

## 1. Purpose / Summary

The Council must appoint an Independent Person to assist the Conduct Committee in determining Member Conduct complaints as set out within the Localism Act 2011.

## 2. Key issues

The Council has a vacancy for the position of Independent Person since Tina Gambell resigned from her position. The Deputy Independent Person, Claire Hawden-Beal has supported the Council during the period in which we have carried a vacancy.

The Council advertised the position of Independent Person on the Council's website, in the local press and in a recruitment supplement. We received a total of 6 applications for the role.

Independent persons must not during the previous 5 years have been a member or officer of Fenland District Council or be a close friend of either a member or officer of Fenland District Council.

Following review of the application form and an interview, the interview panel consisting of the Chairman of Conduct Committee, Monitoring Officer and Deputy Monitoring Officer unanimously agreed Stuart Webster would be the panel's recommendation to Conduct Committee and Council.

Stuart Webster is a newly retired Police Officer from the Metropolitan Police Service following 30 years' service within which he has held a range of different roles. Following his retirement, Stuart is keen to continue to serve the community and utilise his skills from within his previous roles. Stuart displayed the required skills and aptitude as set out within the person specification for the role and is recommended to be appointed by Members to undergo an induction and training.

### Recommendations

It is recommended that the Conduct Committee recommends to Council on 18 July 2019 to appoint Stuart Webster as the Council's Independent Person.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	
<b>Report Originator(s)</b>	Carol Pilson, Monitoring Officer Amy Brown, Deputy Monitoring Officer
<b>Contact Officer(s)</b>	Carol Pilson, Monitoring Officer
<b>Background Paper(s)</b>	

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Agenda Item No:	<b>9</b>	
Committee:	<b>Conduct Committee</b>	
Date:	<b>3rd July 2019</b>	
Report Title:	<b>Local Government Ethical Standards</b>	

## 1. Purpose / Summary

The purpose of this Report is to bring to Members' attention the publication of a report by the Committee on Standards in Public Life and the associated impact/recommendations arising for Fenland District Council.

## 2. Key issues

On 30th January 2019, the Committee on Standards in Public Life published the outcome of its Review on Local Government Ethical Standards and its contents has been analysed as against the existing arrangements at Fenland District Council to identify areas where improvements can continue to be made.

## 3. Recommendations

It is recommended that the Conduct Committee notes the recommendations contained within the Committee on Standards in Public Life ("CSPL") report on Local Government Ethical Standards and considers its impact in determining the other items on the agenda.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	
<b>Report Originator(s)</b>	Carol Pilson, Monitoring Officer Amy Brown, Deputy Monitoring Officer
<b>Contact Officer(s)</b>	Carol Pilson, Monitoring Officer
<b>Background Paper(s)</b>	Standards in Public Life Review: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF</a> .  Analysis of Fenland District Council's existing practices as against the recommendations of the Standards in Public Life Review (Appendix 1).

## **1. BACKGROUND/INTRODUCTION**

- 1.1. The Committee on Standards in Public Life wrote to the Prime Minister in January 2018 to inform the Government that the Committee was to undertake a review of local government standards.
- 1.2. As part of this review, the Committee held a public stakeholder consultation and has looked at the conduct and culture in local government, both at principal authority level and in town and parish councils. The consultation closed on Friday 18 May 2018 and the Committee's report was published on 31st January 2019, see link on page 1.
- 1.3. Following publication arrangements were made to consider the extent to which Fenland District Council's existing practices and procedures could be enhanced to incorporate all relevant best practice requirements. The completed analysis is at Appendix 1.

## **2. REPORT FINDINGS AND IMPLICATIONS FOR FENLAND DISTRICT COUNCIL**

- 2.1. The report findings indicate that the majority of councillors and officers maintain high standards of conduct and that the arrangements for local management of these matters should continue but need to be supported by robust safeguards and adequate resource. Nevertheless, it was identified that there is clear evidence of misconduct by some and mostly manifests in bullying, harassment or other disruptive behaviour. Furthermore, observations have been made about the suitability of the current rules governing declaring interests, gifts and hospitality and the availability of appropriate sanctions when breaches have occurred.
- 2.2. In recognition its findings, the Committee has identified various points of best practice and made specific recommendations for improvement. Appendix 1 sets out each of the key recommendations and identifies the areas where changes are most likely to be required in the context of Fenland District Council's existing arrangements. Where immediate changes can be considered these have been highlighted in italics.
- 2.3. It is recognised that many of the recommendations will require primary legislation to change parts of the Localism Act 2011 and will therefore be subject to parliamentary timetabling. Nevertheless, it is open to Councils to adopt the many best practice points with immediate effect and the Committee has indicated their intention to review implementation in 2020.

## **3. CONCLUSION**

This Report is submitted for consideration by the Conduct Committee as part of its role in overseeing compliance with the Members' Code of Conduct and in promoting high standards of conduct by Members. Members of the Conduct Committee are invited to note the contents of the Report and the subsequent analysis of Fenland District Council's current arrangements as against the recommended practices. Work has already commenced where areas for enhancement have been identified and these comprise other items on the agenda for consideration by the Conduct Committee.

## Appendix 1 - Summary of Recommendations and Best Practice Requirements

Committee Report	Current Practice	Next Steps
<b>Recommendations set out at pages 14 - 17 of the Commission's Report</b>		
R1 Model Code	FDC has a Member Code of Conduct devised from the previous model code.	Await opportunity to input on the Local Government Association's consultation on proposed changes to the existing model code and consider what revisions are required thereafter.
R2 Registration of Home Address	Where a Councillor considers (and the MO agrees), the the nature of a DPI or other interest is such that disclosure of the details of the interest could lead to the Councillor or a person connected with them being subject to intimidation or violence, it is a "sensitive interest" and the details of the sensitive interest do not need to be included in the register or disclosed to a meeting, although the fact that a sensitive interest exists must be disclosed.	Await amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 confirming that a Councillor does not need to register their home address on an authority's register of interests.
R3 Presumption of acting in official capacity in relation to public conduct/social media.	During the pre-sift the Monitoring Officer, Chair and IPs will always consider whether the allegations relate to actions occurring whilst the subject member was acting in their official capacity.	Await amendments to section 27(2) of the Localism Act 2011 permitting local authorities to presume that a Councillor is acting in their official capacity when deciding upon breaches relating to their public conduct to include statements on publicly accessible social media. <i>In the meantime, FDC is recommended to adopt guidance relating to the use of social media with associated training.</i>
R4. Application of code when acting/claiming to act in official capacity or representative of PCC.	As above.	Await amendments to Section 27(2) of the Localism Act 2011 confirming that the code of conduct applies to a Councillor when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.
R5. Disclosable Pecuniary Interests.	Currently an interest will only amount to a DPI if it relates to any employment, office, trade, profession or vocation carried on for profit or gain.	Await amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include:the following as DPIs; unpaid directorships; trusteeships; management roles in a charity or a body of

		a public nature; and membership of any organisations that seek to influence opinion or public policy. <i>In the meantime the Monitoring Officer is recommended to issue Guidance for Members and Officers who Serve on Outside Bodies.</i>
R6. Gifts & Hospitality	FDC's Code of Conduct already makes provision for the Monitoring Officer to maintain a Register of interests.	Await the updated model code of conduct and consider what if any changes are required and any associated policy requirements.
R7. Non-Statutory Interests	To reflect common law requirements, Fenland District Council's Code of conduct already includes a section on 'other interests' however there is no specific instruction as to when, in those circumstances a Councillor is permitted to remain in the room and/or participate in the debate/vote. There is a presumption in favour of the member leaving the room but there is room for development within the existing arrangements.	Await amendments to Section 31 of the Localism Act 2011 and consider this against the existing requirements of PCC's Code. <i>Meanwhile MO to consider what if any changes to the current definition of 'other interests' is required to strengthen governance and understanding of the common law position.</i>
R8. Appointment of Independent Persons.	There is currently no limit on the term of office of the Independent Person.	Await amendments to the Localism Act 2011 to require that Independent Persons are appointed for a fixed term of two years, renewable once.
R9. Recording the view of the Independent Person.	The Independent Person has a specific role to play within the context of a Conduct Hearing which is then captured in the minute and Decision Notice.	Await updates to the Local Government Transparency Code and consider this against existing requirements. <i>Currently the IP's views are only recorded whether there is a conduct hearing. MO to develop a decision notice for use at the initial assessment stage so as to ensure the required level of transparency throughout the process. The decision notice to be published on a redeveloped 'Conduct' page on the Council's website.</i>
R10. Requirements relating to suspension.	Currently suspension is not a sanction available to the Conduct Committee.	Await confirmation of reintroduction of suspension as a sanction and revise the Conduct Procedure Rules accordingly.
R11. Indemnity for Independent Persons.	Currently there are no specific indemnities for the Independent Person.	<i>The Monitoring Officer should consider what if any indemnities can be provided to the Independent Person under current legislation.</i>
R12. Voting Rights.	Currently whilst the Independent Person is able to attend and	Await legislating permitting the Independent Person and

	<p>Parish/Town Council representatives to have the same rights as members of the Hearing Panel to vote and impose sanctions.</p>	<p>Parish/Town Council representatives to have the same rights as members of the Hearing Panel to vote and impose sanctions.</p>
R13. Right of Appeal.	<p>There is currently no right of appeal in relation to the decision of the Hearings Panel and the Local Government Ombudsman will only involve itself in complaints relating to member conduct in exceptional circumstances.</p>	<p>Await confirmation of the requirement to introduce a right of appeal for a Councillor who is sanctioned with suspension.</p>
R14. Local Government Ombudsman.	<p>As above.</p>	<p>Await confirm of the Local Government Ombudsman's role in responding to appeals (as above).</p>
R15 Publication of Conduct Complaints.	<p>Currently only decisions reached following a hearing of the Conduct Committee are published on the Council's webpage.</p>	<p>Await amendments to the Local Government Transparency Code and consider this against existing practices. <i>As above, MO to develop a decision notice which should be used from the pre-sift stage with outcomes being published on the Council's website. MO to also consider how this information should be reported/summarised to members of the conduct committee.</i></p>
R16 Suspension.	<p>Currently suspension is not a sanction available to the Hearing Panel (Sub-Committee of the Constitution and Ethics Committee).</p>	<p>Await confirmation of proposals relating to the reintroduction of suspension as a sanction and amend the Hearing Procedure as appropriate.</p>
R17 Other Sanctions	<p>It is generally accepted that permissible sanctions include the withdrawal of council facilities and/or barring entry to Council premises where the circumstances of the breach dictate that this is a necessary and proportionate response however there is no legislative basis for this.</p>	<p>Await confirmation/clarification of the sanctions available to the Hearings Panel and amend the Hearing Procedure as appropriate.</p>
R18 Criminal Offences	<p>Failing to comply with statutory requirements relating to the disclosure of disclosable pecuniary interests is currently a criminal offence.</p>	<p>Await amendments to the Localism Act 2011 and amend the Code of Conduct as appropriate.</p>
R19 - Parish Clerks	<p>There is currently a degree of variability in terms of the</p>	<p><i>Monitoring Officer to host training sessions with Parish</i></p>

	qualifications held.	clerks.
R20 - Parish Council Codes of Conduct	It is estimated that the majority of Parish Council's adopt FDC's Code.	Await amendments to section 27(3) of the Localism Act 2011 stating that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code. <i>In the interim Monitoring Officer to undertake an audit as to which of the Parish Councils are currently utilising FDC's Code and consider ongoing engagement with Parishes to achieve a cohesive approach where possible. This also to include an audit of the registers of interests and the timescales within which these are being published online.</i>
R21 - Sanctioning Parish Councillors	The Conduct Committee currently determines sanctions for Parish Councillors in the event of a breach of the Code having been established.	Await amendments to section 28(11) of the Localism Act 2011 to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority and consider against existing provisions.
R22 - Disciplinary Protection	The Council currently abides by the 2015 Regulations as well as nationally negotiated terms and conditions.	Await amendments to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and ensure that this is appropriately recorded in the Officer Employment Rules.
R23 - Whistleblowing Policy	The Council has a Whistle Blowing Policy which specifies the steps that staff and/or members of the public can take if they wish to raise a concern.	Await amendments to the Local Government Transparency Code requiring that the Council's whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website. <i>In the interim, Monitoring Officer to review the existing arrangements for publishing the Council's Whistle Blowing Policy and the procedure that must be followed to include the inclusion of a named contact.</i>

R24 - Prescribed Persons	Currently councillors are not listed as 'prescribed persons' within the Act.	Await amendments to the Public Interest Disclosure Act 1998 to include Councillors as 'prescribed persons' within the list.
R25 - Induction Training	FDC currently provides induction and refresher training as appropriate. There is however no means of compelling attendance save in respect of certain Committees where training is a prescribed requirement.	Await changes to national model group rules and support from political groups in respect of the recommendation that Councillors should be required to attend formal induction training.
R26 - Peer Reviews	FDC currently seeks opportunities to review best practice amongst peers via its participation in a Monitoring Officer Group for the region.	Await changes to the scope of the Local Government Association's corporate peer reviews to include consideration of a local authority's processes for maintaining ethical standards.
<b>Best Practice Proposals at Pages 18 - 19 of the Commission's Report</b>		
BP1 - Prohibition on bullying and harassment to include a definition and examples.	The Members' Code is sufficiently widely drafted to include all forms of unacceptable behaviour however there is nothing explicit with regard to bullying and harassment.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
BP2 Code to specify that Councillors must comply with investigations and to prohibit trivial/malicious allegations between Councillors.	FDC's conduct procedure rules permit the pre-sift to reject a complaint if it is considered to be politically trivial, vexatious or tit for tat. There is no specific requirement for Councillors to comply with the Hearings Procedure or Guidance for Submitting a Complaint however it is an expectation that they do so both in general compliance with the Code and so as not to prejudice their case.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
BP3 Reviewing the Code and public/partner engagement.	Currently there is no requirement to review the Code however any significant changes would be appropriately consulted on.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
BP4 Accessibility	All of the documentation relating to the Code of Conduct and management of alleged breaches can be found on the Council's	<i>Monitoring Officer to review the Council's website to consider the development of a single page where all</i>

	website together with information relating to the Conduct Committee.	<i>information relating to complaints and meetings of the Conduct Committee is accessible together with published decision notices, guidance on making a complaint and the code of conduct and hearing procedure etc.</i>
BP5 Gifts & Hospitality	FDC maintains and gifts and hospitality register however it is not currently published.	<i>Monitoring Officer to review the register of gifts and hospitality to ensure that it is being kept up-to-date and adequately publicised and to consider any communications that may be required to ensure ongoing compliance.</i>
BP6 Public Interests Test	FDC's conduct procedure rules set out the criteria against which complaints will be considered and the basis upon which they will be rejected to take into account factors such as delay and overall seriousness as well as the possibility of an alternative resolution.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
BP7 - Independent Persons	FDC currently has 1 Independent Person with a further appointment to be made at Council on 18 July.	<i>Monitoring Officer to proceed with identification of 2nd IP and consider pooling resources across the county in ongoing discussions at the Monitoring Officer Group meeting.</i>
BP8 - IP's Involvement in Initial Assessment of Complaint.	FDC's conduct procedure rules provide that the IPs and the Chairman/Vice-Chairman make the decision as part of the pre-sift as to whether or not there may have been a breach of the Code. The Conduct Committee then make the decision with input from the IP as to whether or not an investigation is warranted.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
BP9 - Publication of Decision Notices.	FDC currently only publishes the findings of the Conduct Committee following a hearing.	<i>Monitoring Officer to review the existing arrangements and develop a Decision Notice for publication in future. This to also be considered with any associated amendments to the Code/Procedure Rule surrounding confidentiality.</i>
BP10 - Guidance on Making a Complaint	FDC does not publish specific guidance on making a complaint but the requirements/process are outlined in the Code of Conduct	<i>Monitoring Officer to draft a guidance document together with a complaint referral form for publication on the</i>

	and Procedure Rules.	<i>webpage.</i>
BP11 - Complaints by Parish Clerks.	There are currently no provisions for this within FDC's existing processes.	<i>Monitoring Officer to continue to liaise with Parish Councils in relation to the development of the Code and associated documentation, in highlighting the Commission's recommendations and in assessing and training requirements.</i>
BP12 - Role of the MO in relation to Parish Councils.	The Monitoring Officer fulfils the same role in respect of Parish complaints as for complaints against District Councillors.	<i>Monitoring Officer to continue to liaise with Parish Councils in relation to the development of the Code and associated documentation, in highlighting the Commission's recommendations and in assessing and training requirements.</i>
BP13 - Conflicts of Interest.	The Monitoring Officer has nominated deputies who are able to assist in circumstances where a conflict arises as well as participating in a Monitoring Officer Group for the region through which the opportunities for resilience can continue to be explored.	<i>Monitoring Officer to ensure that appropriate arrangements are in place for dealing with a complaint where a conflict of interest arises.</i>
BP14 - Outside Bodies.	Cabinet have oversight of the Outside Bodies appointment process.	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.
BP15 - Member Engagement.	It is recognised that member engagement is important to the development of and compliance with appropriate procedures for managing breaches of the Code.	<i>Monitoring Officer to review existing arrangements with the Conduct Committee in order to consider what if any further arrangements for engagement can be put in place to include the development of a work plan for quarterly meetings.</i>

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## Summary of Recommendations and Best Practice Requirements Outlined in the Commission's Report

<b>Committee Report</b>	<b>Current Practice</b>	<b>Possible Next Steps Subject to Changes in Legislation Where Appropriate</b>
<p><b><i>Commission's Recommendations to Government (unless otherwise specified) set out at pages 14 - 17 of the Commission's Report (NB these recommendations are included for completeness and do not require action unless otherwise indicated for good governance purposes. It is therefore foreseen that before any steps can be taken by FDC further action will need to be awaited either from Government, the Local Government Association, Parish Councils or Political Groups).</i></b></p>		
<p><b>R1 Model Code</b> The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.</p>	<p>FDC has a Member Code of Conduct devised from the previous model code.</p>	<p>This recommendation was made to the Local Government Association therefore await opportunity to input on the Local Government Association's consultation on proposed changes to the existing model code and consider what revisions are required thereafter.</p>
<p><b>R2 Registration of Home Address</b> The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests</p>	<p>Where a Councillor considers (and the MO agrees), the nature of a DPI or other interest is such that disclosure of the details of the interest could lead to the Councillor or a person connected with them being subject to intimidation or violence, it is a "sensitive interest" and the details of the sensitive interest do not need to be included in the register or disclosed to a meeting, although the fact that a sensitive interest exists must be disclosed.</p>	<p>Await amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 confirming that a Councillor does not need to register their home address on an authority's register of interests.</p>
<p><b>R3 Presumption of acting in official capacity in relation to public</b></p>	<p>During the pre-sift the Monitoring Officer, Chair and IPs will always consider whether the</p>	<p>Await amendments to section 27(2) of the Localism Act 2011 permitting local authorities to presume that</p>

<p><b>conduct/social media.</b> Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.</p>	<p>allegations relate to actions occurring whilst the subject member was acting in their official capacity.</p>	<p>a Councillor is acting in their official capacity when deciding upon breaches relating to their public conduct to include statements on publicly accessible social media. <i>In the meantime, FDC is recommended to adopt guidance relating to the use of social media with associated training.</i></p>
<p><b>R4. Application of code when acting/claiming to act in official capacity or representative of FDC.</b> Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.</p>	<p>As above.</p>	<p>Await amendments to Section 27(2) of the Localism Act 2011 confirming that the code of conduct applies to a Councillor when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.</p>
<p><b>R5. Disclosable Pecuniary Interests.</b> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.</p>	<p>Currently an interest will only amount to a DPI if it relates to any employment, office, trade, profession or vocation carried on for profit or gain.</p>	<p>Await amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to include: the following as DPIs; unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy. <i>In the meantime the Monitoring Officer is recommended to issue Guidance for Members and Officers who Serve on Outside Bodies.</i></p>
<p><b>R6. Gifts &amp; Hospitality</b> Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts</p>	<p>FDC's Code of Conduct already makes provision for the Monitoring Officer to maintain a Register of interests.</p>	<p>Await the updated model code of conduct and consider what if any changes are required and any associated policy requirements.</p>

<p>and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.</p>		
<p><b>R7. Non-Statutory Interests</b> Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".</p>	<p>To reflect common law requirements, Fenland District Council's Code of conduct already includes a section on 'other interests' however there is no specific instruction as to when, in those circumstances a Councillor is permitted to remain in the room and/or participate in the debate/vote. There is a presumption in favour of the member leaving the room but there is room for development within the existing arrangements.</p>	<p>Await amendments to Section 31 of the Localism Act 2011 and consider this against the existing requirements of FDC's Code. <i>Meanwhile MO to consider what if any changes to the current definition of 'other interests' is required to strengthen governance and understanding of the common law position.</i></p>
<p><b>R8. Appointment of Independent Persons.</b> The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.</p>	<p>There is currently no limit on the term of office of the Independent Person.</p>	<p>Await amendments to the Localism Act 2011 to require that Independent Persons are appointed for a fixed term of two years, renewable once. <i>Monitoring Officer to consider implementing the suggested term with immediate effect in view of the fact that a recruitment exercise is about to commence. MO to also consider the development/implementation of a charter.</i></p>
<p><b>R9. Recording the view of the Independent Person.</b> The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should</p>	<p>The Independent Person has a specific role to play within the context of a Conduct Hearing which is then captured in the minute and Decision Notice.</p>	<p>Await updates to the Local Government Transparency Code and consider this against existing requirements. <i>Currently the IP's views are only recorded whether there is a conduct hearing. MO to develop a decision notice for use at the initial assessment stage so as to ensure the required level</i></p>

be formally recorded in any decision notice or minutes.		<i>of transparency throughout the process. The decision notice to be published on a redeveloped 'Conduct' page on the Council's website.</i>
<p><b>R10. Requirements relating to suspension.</b></p> <p>A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.</p>	Currently suspension is not a sanction available to the Conduct Committee.	Await confirmation of reintroduction of suspension as a sanction and revise the Conduct Procedure Rules accordingly.
<p><b>R11. Indemnity for Independent Persons.</b></p> <p>Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.</p>	Currently there are no specific indemnities for the Independent Person.	<i>This Recommendation is to Government and all local authorities therefore the Monitoring Officer should consider what if any indemnities can be provided to the Independent Person under current legislation.</i>
<p><b>R12. Voting Rights.</b></p> <p>Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.</p>	Currently whilst the Independent Person is able to attend and speak at meetings of the Hearing Panel, they do not have voting rights.	Await legislating permitting the Independent Person and Parish/Town Council representatives to have the same rights as members of the Hearing Panel to vote and impose sanctions.
<p><b>R13. Right of Appeal.</b></p> <p>Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.</p>	There is currently no right of appeal in relation to the decision of the Hearings Panel and the Local Government Ombudsman will only involve itself in complaints relating to member conduct in exceptional circumstances.	Await confirmation of the requirement to introduce a right of appeal for a Councillor who is sanctioned with suspension.
<p><b>R14. Local Government Ombudsman.</b></p> <p>The Local Government Ombudsman should</p>	As above.	Await confirm of the Local Government Ombudsman's role in responding to appeals (as

<p>be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.</p>		<p>above).</p>
<p><b>R15 Publication of Conduct Complaints.</b> The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.</p>	<p>Currently only decisions reached following a hearing of the Conduct Committee are published on the Council's webpage.</p>	<p>Await amendments to the Local Government Transparency Code and consider this against existing practices. <i>As above, MO to develop a decision notice which should be used from the pre-sift stage with outcomes being published on the Council's website. MO to also consider how this information should be reported/summarised to members of the conduct committee.</i></p>
<p><b>R16 Suspension.</b> Local authorities should be given the power to suspend councillors, without allowances, for up to six months.</p>	<p>Currently suspension is not a sanction available to the Hearing Panel (Sub-Committee of the Constitution and Ethics Committee).</p>	<p>Await confirmation of proposals relating to the reintroduction of suspension as a sanction and amend the Hearing Procedure as appropriate.</p>
<p><b>R17 Other Sanctions</b> The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary</p>	<p>It is generally accepted that permissible sanctions include the withdrawal of council facilities and/or barring entry to Council premises where the circumstances of the breach dictate that this is a necessary and proportionate response however there is no legislative basis for this.</p>	<p>Await confirmation/clarification of the sanctions available to the Hearings Panel and amend the Hearing Procedure as appropriate.</p>
<p><b>R18 Criminal Offences</b> The criminal offences in the Localism Act</p>	<p>Failing to comply with statutory requirements relating to the disclosure of disclosable</p>	<p>Await amendments to the Localism Act 2011 and amend the Code of Conduct as appropriate.</p>

2011 relating to Disclosable Pecuniary Interests should be abolished.	pecuniary interests is currently a criminal offence.	
<b>R19 - Parish Clerks</b> Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	There is currently a degree of variability in terms of the qualifications held.	This recommendation is to Parish Councils therefore the <i>Monitoring Officer to engage with Parish Council Clerks to undertake an audit of the qualifications held and to raise awareness of this recommendation as appropriate.</i>
<b>R20 - Parish Council Codes of Conduct</b> Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	It is estimated that the majority of Parish Council's adopt FDC's Code.	Await amendments to section 27(3) of the Localism Act 2011 stating that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code. <i>In the interim Monitoring Officer to undertake an audit as to which of the Parish Councils are currently utilising FDC's Code and consider ongoing engagement with Parishes to achieve a cohesive approach where possible. This also to include an audit of the registers of interests and the timescales within which these are being published online.</i>
<b>R21 - Sanctioning Parish Councillors</b> Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	The Conduct Committee currently determines sanctions for Parish Councillors in the event of a breach of the Code having been established.	Await amendments to section 28(11) of the Localism Act 2011 o state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority and consider against existing provisions.
<b>R22 - Disciplinary Protection</b> The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	The Council currently abides by the 2015 Regulations as well as nationally negotiated terms and conditions.	Await amendments to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and ensure that this is appropriately recorded in the Officer Employment Rules.
<b>R23 - Whistleblowing Policy</b> The Local Government Transparency Code should be updated to provide that local authorities must ensure that their	The Council has a Whistle Blowing Policy which specifies the steps that staff and/or members of the public can take if they wish to raise a concern.	Await amendments to the Local Government Transparency Code requiring that the Council's whistleblowing policy specifies a named contact for the external auditor alongside their contact details,

whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.		which should be available on the authority's website. <i>In the interim, Monitoring Officer to review the existing arrangements for publishing the Council's Whistle Blowing Policy and the procedure that must be followed to include the inclusion of a named contact.</i>
<b>R24 - Prescribed Persons</b> Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Currently councillors are not listed as 'prescribed persons' within the Act.	Await amendments to the Public Interest Disclosure Act 1998 to include Councillors as 'prescribed persons' within the list.
<b>R25 - Induction Training</b> Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	FDC currently provides induction and refresher training as appropriate. There is however no means of compelling attendance save in respect of certain Committees where training is a prescribed requirement.	This recommendation is made to political groups therefore Await changes to national model group rules and support from political groups in respect of the recommendation that Councillors should be required to attend formal induction training.
<b>R26 - Peer Reviews</b> Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards	FDC currently seeks opportunities to review best practice amongst peers via its participation in a Monitoring Officer Group for the region.	This recommendation is made to the Local Government Association therefore await changes to the scope of the Local Government Association's corporate peer reviews to include consideration of a local authority's processes for maintaining ethical standards.
<b><i>Best Practice Proposals at Pages 18 - 19 of the Commission's Report for Consideration by the Monitoring Officer and Where Appropriate Incorporation into FDC's Existing Practices and Procedures</i></b>		
<b>BP1 - Prohibition on bullying and harassment to include a definition and examples.</b> Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition	The Members' Code is sufficiently widely drafted to include all forms of unacceptable behaviour however there is nothing explicit with regard to bullying and harassment.	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i>
<b>BP2 Code to specify that Councillors must comply with investigations and to prohibit</b>	FDC's conduct procedure rules permit the pe-sift to reject a complaint if it is considered to be	<i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure</i>

<p><b>trivial/malicious allegations between Councillors.</b> Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.</p>	<p>politically trivial, vexatious or tit for tat. There is no specific requirement for Councillors to comply with the Hearings Procedure or Guidance for Submitting a Complaint however it is an expectation that they do so both in general compliance with the Code and so as not to prejudice their case.</p>	<p><i>Rules as required.</i></p>
<p><b>BP3 Reviewing the Code and public/partner engagement.</b> Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.</p>	<p>Currently there is no requirement to review the Code however any significant changes would be appropriately consulted on.</p>	<p><i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i></p>
<p><b>BP4 Accessibility</b> An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.</p>	<p>All of the documentation relating to the Code of Conduct and management of alleged breaches can be found on the Council's website together with information relating to the Conduct Committee.</p>	<p><i>Monitoring Officer to review the Council's website to consider the development of a single page where all information relating to complaints and meetings of the Conduct Committee is accessible together with published decision notices, guidance on making a complaint and the code of conduct and hearing procedure etc.</i></p>
<p><b>BP5 Gifts &amp; Hospitality</b> Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>	<p>FDC maintains and gifts and hospitality register however it is not currently published.</p>	<p><i>Monitoring Officer to review the register of gifts and hospitality to ensure that it is being kept up-to-date and adequately publicised and to consider any communications that may be required to ensure ongoing compliance.</i></p>
<p><b>BP6 Public Interests Test</b> Councils should publish a clear and straightforward public interest test against</p>	<p>FDC's conduct procedure rules set out the criteria against which complaints will be considered and the basis upon which they will be</p>	<p><i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i></p>

<p>which allegations are filtered.</p>	<p>rejected to take into account factors such as delay and overall seriousness as well as the possibility of an alternative resolution.</p>	
<p><b>BP7 - Independent Persons</b> Local authorities should have access to at least two Independent Persons.</p>	<p>FDC currently has 1 Independent Person.</p>	<p><i>Monitoring Officer to proceed with identification of 2nd IP and consider pooling resources across the county in ongoing discussions at the Monitoring Officer Group meeting.</i></p>
<p><b>BP8 - IP's Involvement in Initial Assessment of Complaint.</b> An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	<p>FDC's conduct procedure rules provide that the IPs and the Chair/Vice-Chair make the decision as part of the pre-sift as to whether or not there may have been a breach of the Code. The Conduct Committee then make the decision with input from the IP as to whether or not an investigation is warranted.</p>	<p><i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i></p>
<p><b>BP9 - Publication of Decision Notices.</b> Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker,</p>	<p>FDC currently only publishes the findings of the Conduct Committee following a hearing.</p>	<p><i>Monitoring Officer to review the existing arrangements and develop a Decision Notice for publication in future. This to also be considered with any associated amendments to the Code/Procedure Rule surrounding confidentiality.</i></p>

and any sanction applied.		
<p><b>BP10 - Guidance on Making a Complaint</b> A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.</p>	FDC does not publish specific guidance on making a complaint but the requirements/process are outlined in the Code of Conduct and Procedure Rules.	<i>Monitoring Officer to draft a guidance document together with a complaint referral form for publication on the webpage.</i>
<p><b>BP11 - Complaints by Parish Clerks.</b> Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.</p>	There are currently no provisions for this within FDC's existing processes.	<i>Monitoring Officer to continue to liaise with Parish Councils in relation to the development of the Code and associated documentation, in highlighting the Commission's recommendations and in assessing and training requirements.</i>
<p><b>BP12 - Role of the MO in relation to Parish Councils.</b> Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>	The Monitoring Officer fulfils the same role in respect of Parish complaints as for complaints against City Councillors.	<i>Monitoring Officer to continue to liaise with Parish Councils in relation to the development of the Code and associated documentation, in highlighting the Commission's recommendations and in assessing and training requirements.</i>
<p><b>BP13 - Conflicts of Interest.</b> A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	The Monitoring Officer has nominated deputies who are able to assist in circumstances where a conflict arises as well as participating in a Monitoring Officer Group for the region through which the opportunities for resilience can continue to be explored.	<i>Monitoring Officer to ensure that appropriate arrangements are in place for dealing with a complaint where a conflict of interest arises.</i>
<p><b>BP14 - Outside Bodies.</b> Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give</p>	<i>Consideration to be given as to whether or not this function should be picked up by the Audit Committee.</i>	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies

<p>a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.</p>		<p>created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.</p>
<p><b>BP15 - Member Engagement.</b> Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>It is recognised that member engagement is important to the development of and compliance with appropriate procedures for managing breaches of the Code.</p>	<p><i>Monitoring Officer to review existing arrangements with the Conduct Committee in order to consider what if any further arrangements for engagement can be put in place to include the development of a work plan for quarterly meetings.</i></p>

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# Agenda Item 9



## Conduct Committee Forward Agenda Plan

Meeting Date	Agenda Items
October 2019	Member Conduct Update Appointment of Town/Parish Councillor Items of Topical Interest
January 2020	Member Conduct Update Items of Topical Interest
April 2020	Member Conduct Update Items of Topical Interest
September 2020	Member Conduct Update Items of Topical Interest

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