

AGENDA

CONDUCT COMMITTEE

FRIDAY, 4 DECEMBER 2020

11.30 AM

**VIA ZOOM VIDEO CONFERENCING
SYSTEM**

Committee Officer: Joanne Goodrum
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Due to the COVID-19 outbreak and the restrictions by the Government on gatherings of people, this meeting will be conducted remotely using the Zoom video conferencing system. There will be no access to this meeting at the Council offices but you can view the meeting on YouTube, apart from any items marked confidential.

- 1 Appointment of Chairman for the Municipal Year.
- 2 To receive apologies for absence.
- 3 Appointment of Vice Chairman for the Municipal Year.
- 4 Previous Minutes. (Pages 3 - 6)

To confirm the minutes of the meeting of 21 August 2019.

- 5 To report additional items for consideration which the Chairman deems urgent by virtue of the special circumstances to be now specified.
- 6 Members to declare any interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.
- 7 Revisions to Member Code of Conduct (Pages 7 - 12)

To consider and, if appropriate recommend to Council proposed amendments to the Code of Conduct for Members in accordance with its terms of reference under Part 3, Table 2 of the Constitution.

8 Items of Topical Interest.

9 Items which the Chairman has under Item 5 deemed urgent.

Thursday, 26 November 2020

Members: Councillor D Topgood, Councillor S Wallwork, Councillor M Cornwell, Councillor D Patrick, Councillor M Purser, S Webster, C Hawden-Beal and Councillor A Donnelly

CONDUCT COMMITTEE



WEDNESDAY, 21 AUGUST 2019 - 2.00 PM

PRESENT: Councillor D Topgood (Chairman), Councillor S Wallwork (Vice-Chairman), Councillor A Maul, Councillor M Purser and S Webster

APOLOGIES: Councillor M Cornwell, Councillor D Patrick and C Hawden-Beal

OFFICERS IN ATTENDANCE: Izzi Hurst (Member Services & Governance Officer) and Carol Pilson (Corporate Director and Monitoring Officer)

CND8/19 PREVIOUS MINUTES.

The minutes of the meeting of 3 July 2019 were confirmed and signed.

COUNCILLOR TOPGOOD WELCOMED STUART WEBSTER TO CONDUCT COMMITTEE.

CND9/19 CO-OPTION OF TOWN AND PARISH COUNCIL REPRESENTATIVE.

Members considered the Co-option of Town and Parish Council Representative Report.

Members asked questions, made comments and received responses as follows;

1. Councillor Mrs Wallwork agreed with the recommendation to co-opt Councillor John Maxwell to Conduct Committee. She stated that appointing a representative from a Parish Council, balances the representation on Conduct Committee between Fenland's towns and parishes.

The Conduct Committee AGREED to co-opt Councillor John Maxwell to the Conduct Committee.

CND10/19 REVISED CONDUCT PROCEDURE RULES, GUIDANCE & TEMPLATES

Members considered the Revised Conduct Procedure Rules, Guidance and Templates report, presented by Carol Pilson.

Carol Pilson drew members attention to feedback received as part of the consultation process (page 12 of the Agenda Pack). She informed members that their comments made at the previous meeting had been incorporated into the updated report.

Members asked questions, made comments and received responses as follows;

1. Councillor Purser asked if the report is related to the Council's 3Cs process. Carol Pilson explained that the 3Cs process relates to general comments made to the Council and in relation to the Council itself. This report details the procedure of dealing with potential breaches of the Members Code of Conduct.
2. Members asked if Carol Pilson could provide an overview of the proposed procedure. Carol Pilson provided members with an overview of the revised procedure and highlighted the differences between this and the former process.

3. Councillor Maul asked if 7 working days is a suitable timescale for the Subject to provide a response to a complaint and asked if there is flexibility with this timescale (point 2.1.5 of the report). Carol Pilson confirmed that the timescale is reasonable however, where required, an extension of time can be granted to the Subject.
4. Councillor Maul asked if there were provisions in place in the event that the Independent Person, Chairman/Vice-Chairman of Conduct Committee and the Monitoring Officer disagree over the outcome of a complaint. Carol Pilson highlighted that whilst this would be an unlikely event, the Monitoring Officer has the ultimate decision.
5. Councillor Topgood highlighted that by having three individuals involved in the process, it is unlikely that a majority decision would not be made.
6. Councillor Mrs Wallwork asked for clarification on the Monitoring Officer's role in the previous process. Carol Pilson explained that previously the Monitoring Officer had been involved in an advisory capacity. The new procedure will allow quicker processing times of complaints whilst maintaining public transparency by publishing decision notices in relation to all complaints submitted.
7. Councillor Purser asked what type of complaints the Council receives in relation to members conduct. Carol Pilson explained that the Council receive and consider a wide variety of complaints made against members.
8. Councillor Maul praised the report and said the new procedure will reduce the processing time of complaints significantly.
9. Councillor Mrs Wallwork agreed and highlighted that whilst the Code of Conduct prevents members from publically making derogatory comments, it does not prevent members from voicing their opinions.
10. Carol Pilson explained that many other Local Authorities include only the Monitoring Officer and Independent Person in the preliminary consideration of complaints however; she understands that members are keen to have a political oversight of the process and the Chairman/ Vice-Chairman of the Conduct Committee will now be included in the preliminary stages.
11. Councillor Maul agreed and added that an impartial and unbiased approach must be taken when considering complaints against members.
12. Councillor Topgood supported the report and stated that it will streamline the complaint process and allow frivolous complaints to be settled fairly and quickly.
13. Councillor Topgood added that the procedure will allow the Council to be open and transparent with the complaints made against members whilst keeping all parties updated on the progress.
14. Councillor Topgood invited the Independent Person, Stuart Webster to comment and he thanked Carol Pilson for incorporating his comments into the final report.
15. Members congratulated and thanked Carol Pilson and Amy Brown for their hard work on this report.

Proposed by Councillor Purser, seconded by Councillor Mrs Wallwork and AGREED that the Conduct Committee recommend the Revised Conduct Procedure Rules, Guidance and Templates report to Full Council for adoption.

CND11/19 TRAINING.

Councillor Topgood asked members for suggestions in relation to training sessions they wish to be provided with.

1. Councillor Maul suggested that a training session could be arranged in relation to Members Code of Conduct. Whilst the policy is comprehensive, he thought it would be useful for members to attend a training session and share their experiences of the policy in a practical and open forum.
2. Councillor Topgood agreed and added that he had found the Member Induction days arranged by officers, very useful for new members. He added that he had recently attended

an external training session for new councillors and had been impressed with the training programme offered to members by the Council, in comparison with other Local Authorities training programmes.

3. Councillor Maul suggested Social Media training may also be useful to members. Carol Pilson confirmed that this could be arranged and informed members that there is an External Solicitor available to conduct the training session. He will be able to provide members with information in relation to case law and provide practical examples of case studies in relation to this subject from a national perspective. Members agreed to this.
4. Councillor Maul agreed that it would be useful to have an external solicitor advise members on experience of case law surrounding this topic.
5. Carol Pilson suggested that an invitation could be extended to Town & Parish members too. Members agreed.
6. Carol Pilson confirmed that at the next Conduct Committee meeting scheduled to take place in January 2020, members will be provided with guidance on Social Media use.
7. Councillor Mrs Wallwork supported Social Media training for members as members are responsible for maintaining a public persona whilst upholding their own values. She added that often members can be subject to difficult situations on Social Media platforms and it would be useful for advice to be provided on this matter.
8. Councillor Purser agreed with the suggestions provided and thought Social Media training would be valuable to new members.
9. Councillor Maul stated that Social Media training would be beneficial and provide assistance to members in relation to public engagement.
10. Councillor Mrs Wallwork added that Social Media is quite a 'grey-area' in relation to member engagement and by providing members with case law and studies, this would be very beneficial.
11. Councillor Donnelly agreed with members and highlighted that Conduct matters can be difficult to manage in local authorities as the outcomes are much more limited compared to other areas in the public sector.
12. Stuart Webster agreed with member's suggestions and asked that he is invited along to future training sessions.
13. Carol Pilson agreed to arrange the appropriate training sessions and asked members to consider whether it would be beneficial to arrange further training in relation to dispensations and members interests too.
14. Carol Pilson asked members to consider whether a 'mock' Conduct Hearing would be useful for a future date.

CND12/19 ITEMS OF TOPICAL INTEREST.


Carol Pilson confirmed that there are currently no outstanding conduct complaints.

Members proposed that forthcoming meetings of Conduct Committee were rearranged to take place at 4.00pm. Izzi Hurst agreed to liaise with those members not in today, to ensure that they are agreeable with the amendment to the time.

2.45 pm

Chairman

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CONDUCT COMMITTEE - Agenda Item 7		
Date:	4th December 2020	
Report Title:	Amendments to Code of Conduct	

1. Summary

To consider and, if appropriate recommend to Council proposed amendments to the Code of Conduct for Members in accordance with its terms of reference under Part 3, Table 2 of the Constitution.

2. Key Issues

Paragraph 27(2) of the Localism Act 2011 requires each relevant authority (which includes Fenland District Council) to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. Paragraph 28(5) of the same Act permits relevant authorities to revise their Code of Conduct however, that function is reserved to Full Council for determination. Nevertheless, as part of its local governance arrangements and in accordance with Part 2, Table 3 of the Constitution, the Conduct Committee has responsibility for advising the Council on the adoption or revision of its Code of Conduct for Members and this is the basis upon which this Report is presented.

3. Recommendation

It is recommended that:

- the Conduct Committee considers the draft amendments to the Code of Conduct for Members set out at Appendix 1 of this Report; and
- If agreed, makes the following recommendations to Full Council for approval:
 - o To adopt the proposed changes to the Code of Conduct for Members; and
 - o To authorise the Monitoring Officer to make the amended Code of Conduct available to all town and parish councils in the Fenland District with a view to those councils adopting it for consistency.

Wards Affected	All Wards
Portfolio Holders	Councillor David Topgood Councillor Susan Wallwork
Report Originator	Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Chief Solicitor and Deputy Monitoring Officer
Contact Officer	Carol Pilson, Corporate Director cpilson@fenland.gov.uk Amy Brown, Chief Solicitor amybrown@fenland.gov.uk
Background Papers	Fenland District Council's Code of Conduct for Members Local Government Association draft Model Code of Conduct.

1. Background

Following feedback from Members, the Monitoring Officer has prepared draft amendments to the Constitution for consideration by the Conduct Committee and, as appropriate their recommendation for approval by Full Council and as desired town and parish councils in the District.

2. Consultation

This Report and the proposed changes to the Code have been shared with all Fenland District Councillors and Parish Council Clerks for consideration and feedback in advance of the meeting. Any responses received will be collated, published and presented to the meeting for consideration.

4. Alternative Options Considered

Members of the Conduct Committee as an alternative to the option proposed could maintain the status quo and/or debate further amendments to those proposed. Should members of the conduct committee seek to incorporate further amendments then these would also need to be consulted on prior to implementation.

5. Implications

5.1 Financial Implications

There are none.

5.2 Legal Implications

The legal implications are set out in the main body of the Report.

5.3 Equality Implications

There are none.

APPENDIX 1

PROPOSED AMENDMENTS TO THE CODE OF CONDUCT

CODE 1 CODE OF CONDUCT FOR MEMBERS¹

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should borne in mind when interpreting the meaning of the Code:-

- 1 **i Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- 2 **ii Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- 3 **iii Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- 4 **iv Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- 5 **v Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- 6 **vi Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- 7 **vii Leadership** Holders of public office should promote and support these principles by leadership and example.

PART 1

GENERAL PROVISIONS

1 Introduction and Interpretation

- 1.1. This Code applies to **you** as a member of Fenland District Council (Fenland).
- 1.2. The term "**the Authority**" used in this Code refers to Fenland.
- 1.3. "**Member**" means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.

1.5 In this Code –

“**Meeting**” means any meeting of:-

- a) The Authority;
- b) Any meetings with the Council's officers;
- c) Any of the Authority's Committees, sub-committees, joint committees, joint sub-committees, or area committees including any virtual meetings²;
- d) Any site visits to do the business of the Authority;
- e) Any of the Authority's advisory groups and, working parties and panels.

1.5. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

2 **Scope**

2.1 You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority. For example, members will be deemed to be acting in their official capacity if:

- they are talking in a Council meeting or public forum where they are there as part of their Councillor role.
- they are writing on an online forum that is open to the public and in which they have made it clear they are responding in their official capacity either by directly saying so, or by responding to a question about Council business in a way that suggests they are doing so.
- they are talking to a member of the electorate about matters which pertain to Council business.

2.2 Where you act as a representative of the Authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3 **General obligations**

The “scope” of the Code of Conduct is important here and these general obligations only appear, as specified earlier in this document, to situations which fall within that scope.

3.1 You must treat others with respect. It is not considered disrespectful to disagree with somebody or to argue a different point of view with them. This is in fact vital to the proper functioning of any democratic authority. You should not however subject individuals, groups of people or organisations to personal attack or use any speech which could be considered to be ‘hate speech’ or otherwise unlawful. Other examples of disrespect include:

- In a meeting, failure to follow the rulings and guidance of the Chairman in regards to conduct and behaviour within the meeting is considered disrespectful.

² Amendment approved by MO Decision 30 April 2020

- Within the scope of the Code of Conduct, to swear or use foul language in a meeting could be considered disrespectful. The Chairman might choose to give a warning about such behaviour.

3.2 You must not:-

(a) do anything, which may cause the Authority to breach UK equalities legislation.

(b) bully any person.

(c) intimidate or attempt to intimidate any person who is or is likely to be:-

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.

(d) do anything, which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

However, it is again important to note that members can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner without this necessarily amounting to bullying, harassment and/or discrimination.

(e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute. For example, behaviour that is considered criminal, dishonest and/or deceitful can bring your authority into disrepute together with false statements about council matters given to and published by the press. However, members may, in their official capacity, civilly express their honestly and reasonably held views provided that their comments are lawful. Members are however encouraged to raise their concerns via the most appropriate forum for dealing with them for instance by referring criminal matters to the police, reporting breaches of the Code to the Monitoring Officer and/or raising concerns about officers with their line manager.

You must not:-

4.1 disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

(a) you have the consent of a person authorised to give it;

(b) you are required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is:-

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority.

4.2 prevent another person from gaining access to information to which that person is entitled by law.

You must not:-

5.1 use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage.

You must:-

- 6.1 when using or authorising the use by others of the resources of the Authority:-
 - (a) act in accordance with your Authority's reasonable requirements;
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 6.2 have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.