

AGENDA

CONDUCT COMMITTEE

THURSDAY, 13 JULY 2023

2.00 PM

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

Committee Officer: Jo Goodrum
Tel: 01354 622285
e-mail: memberservices@fenland.gov.uk

This is a public meeting, and members of the public are encouraged to watch via our You Tube channel: <https://youtube.com/live/LiZu0HxuTZU?feature=share>

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

To approve and sign the minutes of the meeting held 4th December 2020
- 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 Recommendation as to the Co-Option of Town and Parish Council Representatives (Pages 7 - 12)

Fenland District Council is entitled to co-opt up to two representatives from Town and Parish Councils within the District to support its programme of work. The Committee currently has two vacancies therefore applications for this position have been sought from Town and Parish Councils.

8 Items of Topical Interest.

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

Wednesday, 5 July 2023

Members: Councillor S Count, Councillor A Gowler, Councillor J Mockett, Councillor D Patrick, Councillor M Purser, Councillor B Rackley, Councillor T Taylor, S Webster and C Hawden-Beal

CONDUCT COMMITTEE

FRIDAY, 4 DECEMBER 2020 - 11.30 AM



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

APOLOGIES: C Hawden-Beal

Officers in attendance: Amy Brown (Chief Solicitor and Deputy Monitoring Officer) and Carol Pilson (Corporate Director and Monitoring Officer)

CND1/20 APPOINTMENT OF CHAIRMAN FOR THE MUNICIPAL YEAR.

It was proposed by Councillor Purser, seconded by Councillor Wallwork and resolved that Councillor Topgood be elected Chairman of the Conduct Committee for the Municipal Year 2020/21.

CND2/20 APPOINTMENT OF VICE CHAIRMAN FOR THE MUNICIPAL YEAR.

It was proposed by Councillor Topgood, seconded by Councillor Purser and resolved that Councillor Mrs Wallwork be elected Vice-Chairman of the Conduct Committee for the Municipal Year 2020/21.

CND3/20 PREVIOUS MINUTES.

The minutes of the previous meeting 21 August 2019, were confirmed as a true and accurate record.

CND4/20 REVISIONS TO MEMBER CODE OF CONDUCT

Carol Pilson, the Monitoring Officer for the Council, presented the report to members of the Committee.

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

- Councillor Cornwell stated that he has not seen the comments that were circulated and questioned whether the one comment that Carol Pilson had referred to had been incorporated into the hard copy of papers that he had received, or whether there had been an updated set of papers circulated. He added that he welcomes the report as it clarifies a few issues that have caused concern for members for some time. Councillor Cornwell referred to 3.2 of the officer's report, where it states that you must not bully any person, and asked whether there is a definition of 'bully' or is it an area where the definition is dependent upon the person who is being bullied and interpreting that fact. He added that he would like clarity over the statement in the report where it refers to intimidation and a situation where a member may not actually be aware that somebody else is involved in a complaint and they inadvertently become involved in the administration of any investigation or proceedings.
- Carol Pilson referred to the consultation feedback which had been circulated separately and added that in relation to 3.2b, bully any person, the track change under d, is trying to

quantify the bullying element, in the sense that it is qualifying the comments as listed in 3.2 to confirm that you are not bullying somebody if you simply expressing, challenging, criticising or disagreeing with somebody else's views. She added that every complaint is considered on a case by case basis and on its own merits, as the evidence of both the complainant and Councillor need to be taken into consideration. She added that when assessing those type of complaints, published case law will be consulted, to see what type of precedent had been set in that area, in order to come to a conclusion and added that within the presift process the Chairman of the Conduct Committee as well as Stuart Webster, the Independent person, apply their own considerations to the decisions. Carol Pilson referred to 3.2c of the report and added that if a member was unaware that there were any proceedings taking place against them and there was an allegation that they were intimidating then that would be taken into consideration when assessing that complaint.

- Councillor Cornwell expressed the opinion that regarding the issue of bullying he feels it is still a grey area, when the aim is to provide clarity to members. He added that whilst he appreciates the changes and agrees that they are a positive step forward as they add to the guidance to members, the word bullying can be interpreted in different ways by different people and, therefore, members must be clear on how certain aspects of the Code of Conduct are clarified.
- Councillor Topgood made the point that the presift procedure is in place, where the Chairman of Conduct Committee, the Independent Person and the Monitoring Officer carry out the process and ensure everything is in order. He added that the Code of Conduct is now in transition and has been improved vastly. He expressed the opinion, that there are always going to be grey areas, but the document is welcomed, and it is an ongoing fluid document and can be changed and refined as time progresses.
- Councillor Wallwork expressed the opinion the general definition of bullying is consistent and unwanted behaviour that aims at one specific person in order to cause severe harm. She added that having sat on the presift panels she can see how issues are not taken forward and she expressed the view that it is inconsistent targeted behaviour so no one word or action can be classed as bullying.
- Councillor Purser stated that there is also the issue where a third party or bystander could view an incident and perceive it as incident of bullying, but it may just be a heated conversation and there is no actual cause for concern.
- Councillor Topgood reiterated that the presift procedure is in place to review and ensure good practice.
- Councillor Cornwell stated that he is quite content with the document and for it to be used and see how it works. He added that as it is a living document, changes can be made. He added that it is a detailed document with a great deal of explanation in it and he is just trying to seek some clarity to make some minor improvements.
- Councillor Patrick asked how you can determine when somebody is acting as a Councillor or not acting as a Councillor, as in his opinion, as a Councillor you are in that role all the time. He added that a Police Officer, even when off duty, is a Police Officer all the time and can still bring the Police Force into disrepute. Councillor Topgood responded that it is clear within the changes in the document, when it is regarded that somebody is a Councillor or talking as a Councillor and that is why changes are being made to the document. He added that people have different opinions and the report does specify when it will be classed as somebody acting in their authority as a Councillor. Carol Pilson made the point that there is case law which shows that Councillors are not Councillors all the time and they are entitled to a private life. She added that members need to be aware that when assessing conduct complaints, whether a Councillor is acting in their capacity or not, is the first test, and explained that within the draft Code there are some examples as to when it would be deemed a Councillor is acting in an official capacity, but this is not an exhaustive list. She added that under 2.1 of the report, it provides some examples, which include speaking at a Council meeting or forum, writing on an on line forum which is open to the public about Council business and when you are speaking to a member of the electorate about Council business, she added that an exhaustive list can never be provided and there will be

occasions where a Councillor is deemed to be acting in their official capacity which fall outside of those examples. Carol Pilson added that it is whether you are acting in your role as a Councillor or could be perceived as acting in an official capacity which will often relay as to whether you are dealing with Council business.

- Councillor Patrick added that he is still confused as to when he is acting in his role as a Councillor.
- Councillor Wallwork appreciated the views of Councillor Patrick but there may be scenarios when a Councillor is acting as an individual, which should not be brought into a members political life and vice versa and going forward she would hope that the draft Code will allow for that definition of when you are acting as a councillor or as an individual in their personal role.
- Councillor Topgood reiterated that it is a living fluid document and can be changed over time.
- Councillor Patrick stated that he will not make any further comment, but added that there are many improvements that need to be made. He expressed the view that if you are having an argument as a Councillor then the whole argument should be in the capacity of a Councillor.
- Stuart Webster stated that he welcomes the additions to the document and over the last 18 months with some of the conduct complaints that he has overseen and reviewed, he feels that the document will not only help the members themselves have a better understanding of the boundaries, but will also assist members of the public to have a better understanding of how a complaint is dealt with. He added that there does appear to be a grey area when dealing with private forums and stated that a member could leave themselves open to a complaint when saying or doing something within a private group and wondered whether it was something the committee would still need to look at. Stuart Webster expressed the view that the wording within the feedback amendments let him initially think that councillors maybe let to believe that they are in a secure area and would not leave them open to a complaint going forward, which he thinks may need to be reworded. He queried whether that part should be omitted from the document and added that even in the main document it refers to open public forums where a member could be subject to a complaint because it is an open forum and it might lead people to believe that a private area is not looked at and it could be looked at. Councillor Topgood stated that it is an area which can be revisited and the clarification of when and when you are not acting as a Councillor needs to be brought up to date.
- Councillor Cornwell added that a private group is private and all the political groups that members are involved in are governed by their own rules and there has to be the ability for those people to discuss, debate, disagree and agree in those groups which are not open to the public. He stated an open forum is totally different and there the Council's conduct rules cannot stop the freedom of speech that takes place, which the Code of Conduct does acknowledge. Councillor Cornwell stated that anything that takes place in a private group is not subject to Freedom of Information requests and he added that acting in the capacity as a Councillor and where statements and comments are made as a Councillor is not the same as being in a private group in his opinion. Councillor Topgood expressed the opinion that he agrees with the comments made by Councillor Cornwell and added that as Carol Pilson has stated, a Councillor has the right to speak and act as an individual.
- Councillor Donnelly stated that in any capacity either as a member of the public or a Councillor there should not be any form of abuse whatsoever.
- Councillor Patrick stated that he appreciates the comments made by Councillor Cornwell regarding private groups and added that there is a group called Fenland Political Scene which has in excess of 100 members and although it is a private group anybody can access it. Councillor Topgood stated that a private group can be in existence, but only the comments can be made if you are a member of the private group.
- Councillor Wallwork expressed the opinion and probably for case law as well, anything on a social media forum is not a private group and anything on a social media platform that can be shared, copied or in the cloud is not a private group. She added that in her view a private

group is a Whats App group, or an email and she does not want anyone to feel that they can post something on a closed social media forum and feel that it is not going to be seen.

- Councillor Topgood added that by posting something on social media you need think about what you are posting before it is added.
- Councillor Purser stated that he agrees with Councillor Wallworks comments and thinks that much of what can be posted on Facebook can be misinterpreted in many ways.

Members AGREED to make the following recommendations to Full Council for approval:

To adopt the proposed changes and amendments as part of the consultation feedback, to the Code of Conduct for Members.

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.

CND5/20 ITEMS OF TOPICAL INTEREST.

There were no items of topical interest.

12.13 pm

Chairman

Agenda Item No:	7	
Committee:	Conduct Committee	
Date:	13th July 2023	
Report Title:	Recommendation as to the Co-Option of Town and Parish Council Representatives	

1 Purpose / Summary

1.1 Fenland District Council is entitled to co-opt up to two representatives from Town and Parish Councils within the District to support its programme of work. The Committee currently has two vacancies therefore applications for this position have been sought from Town and Parish Councils.

2 Key Issues

- The Conduct Committee can make recommendations as to the co-option of up to two Town or Parish Councillors for approval by Full Council. There are currently 2 vacancies.
- The role is advisory and whilst the members may speak, raise questions and seek to influence the debate they do not have formal voting rights.
- Applications were sought via an email to all Town and Parish Councils.
- Two applications were received.
- The Conduct Committee are requested to consider the applications and, as appropriate, make a recommendation to Full Council for approval.

3 Recommendations

3.1 That Full Council agree the co-option of the 2 applicants to the 2 vacant Town and Parish Council Representative vacancies on the Conduct Committee for a term of 4 years.

Wards Affected	All
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Steve Count, Chairman of the Conduct Committee
Report Originator(s)	Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Assistant Director and Deputy Monitoring Officer
Contact Officer(s)	Carol Pilson; cpilson@fenland.gov.uk Amy Brown; amybrown@fenland.gov.uk
Background Papers	Fenland District Council Constitution

Report:

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 Article 9, paragraph 1.2.3 of Fenland District Council's Constitution specifies that:

"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 Fenland District Council has previously appointed 2 co-opted members of the Conduct Committee with their terms recently having ended.

- 1.2 On 16th June 2023, an email was sent to all Town and Parish Clerks seeking their assistance in notifying their membership of the opportunity to apply for the vacant roles and for expressions of interest to be sent to Member Services via the standard form provided. Applications were requested to be returned by 3rd July 2023. At the date of closure, 2 applications have been received as follows:

- 1.2.1 Martin Field of March Town Council whose application was endorsed by Councillors N Spencer NBE and Gary Christy of March Town Council and appears at Appendix A of this Report; and

- 1.2.2 Jason Ablewhite of Benwick Parish Council whose application was endorsed by Councillors Steve Tierney of Wisbech Town Council and Chris Boden of Whittlesey Town Council and appears at Appendix B.

2 REASONS FOR RECOMMENDATIONS

- 2.1 Fenland District Council is constitutionally required to appoint up to 2 co-opted town and/or parish representatives to its Conduct Committee. The recommendations comprised in this report are designed to give effect to that requirement.

3 CONSULTATION

There are no specific consultation requirements connected with these appointments however all town and parish councillors have had an opportunity to apply with information being sent to all Town and Parish Clerks to disseminate amongst their membership.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Conduct Committee could choose not to recommend appointments to the current vacancies however this would not be in accordance with constitutional requirements or best practice. The Conduct Committee could choose to recommend only one appointment however, the co-option of 2 Town/Parish Council representatives ensures that there is sufficient resilience and capacity.

5 IMPLICATIONS

5.1 Legal Implications

- 5.1.1 The legal implications are as set out in the main body of this Report.

5.2 Financial Implications

- 5.2.1 The Member Allowance Scheme makes an ongoing commitment to pay the co-opted representatives a small co-optees allowance which is currently set at £140 p.a.

5.3 Equality Implications

- 5.3.1 There are no specific equality implications connected with the recommendations presented in this Report.

6 APPENDICES

Appendix A: Martin Field's Application

Appendix B: Jason Ablewhite's Application

Application for Parish or Town Council Representatives Conduct Committee Fenland District Council

Councillor: Martin Field

Of March Parish/Town Council

Reason for applying for role:

I think it is essential that we can account for the good conduct of our elected representatives. It is necessary that this committee representatives a broad spectrum of the community and not be wholly made up of representatives of one political party where the public may question the independence of the decisions made.

Why do you believe you are suitable for the role?.

Please include any relevant experience or expertise you may have:

I believe in the importance of honesty, integrity and ethics in politics and believe that if it is going to be respected by the public that it needs to be subject to open and independent scrutiny.

I have been a District and Town councillor before. I have wide experience of being on a number of committees and governing bodies. I was active on the benefits review board when on the District council, which had a quasi-judicial role.

As a chair of governors at a local school I have had to lead on disciplinary matters.

I am a teacher and have held management roles and have had to negotiate resolutions amongst staff and amongst students.

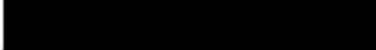
I have been a Union representative in most of my workplaces and involved in the resolution of many employment disputes.

Signed:  Dated: 19/6/23

I wish to endorse the application of Councillor Martin Field

Signed:  Dated: 19 Jun 23 Print Name: N SPENCER MRE

Of: March Town Council

Signed:  Dated: 19-JUN-23 Print Name: GARY CHRISTY

Of: MARCH TOWN COUNCIL

Application for Parish or Town Council Representatives Conduct Committee Fenland District Council

Councillor: Jason David Ablewhite

Of Benwick Parish/Town Council

Reason for applying for role:

Having extensive experience within the local government arena over 22 years, I believe I can bring experience, impartiality and duty to the role.
I have always had a philosophy of giving back to the communities to which I have served and having been involved in the original set up and consultation of the Standards Board for England and Wales, albeit in a different guise now, I can appreciate the need for an effective and fair process.

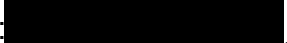
Why do you believe you are suitable for the role?.

Please include any relevant experience or expertise you may have:

I have a reputation for being robust when necessary but I am very fair and work well within a committee structure. I have a full understanding of politics and its nuances and within this role, how the complaints system is sometimes used for political purposes.
My local government experience:
Town Councillor and former Mayor of St Ives.
Various Chairmanships within the councils and outside bodies.
Huntingdonshire District Councillor.
Executive Leader of the Council.
Local Government Association National Executive Board Member
Chairman of the East of England local Government Association
Board Member of LGA, national Fire Commission
Board Member of LGA, Housing, infrastructure and Planning committee
Chairman of the National Procurement Organisation for Policing
Chairman of the Criminal Justice Board for Cambridgeshire
Board Member of the Combined Authority for Cambridgeshire
Police and Crime Commissioner for Cambridgeshire and Peterborough

Signed:  Dated: 28/06/2023

I wish to endorse the application of Councillor Jason Ablewhite

Signed:  Dated: 29/6/23 Print Name: Steve Tierney

Of: Wisbech Town Council

Signed: _____ Dated: 30/06/23 _____ Print Name: Chris Boden_

Of: Whittlesey Town Council _____