

## 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>

<p>be formally recorded in any decision notice or minutes.</p>		<p><i>of transparency throughout the process. The decision notice to be published on a redeveloped 'Conduct' page on the Council's website.</i></p>
<p><b>R10. Requirements relating to suspension.</b> 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>	<p>Currently suspension is not a sanction available to the Conduct Committee.</p>	<p>Await confirmation of reintroduction of suspension as a sanction and revise the Conduct Procedure Rules accordingly.</p>
<p><b>R11. Indemnity for Independent Persons.</b> 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>	<p>Currently there are no specific indemnities for the Independent Person.</p>	<p><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>
<p><b>R12. Voting Rights.</b> 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>	<p>Currently whilst the Independent Person is able to attend and speak at meetings of the Hearing Panel, they do not have voting rights.</p>	<p>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>
<p><b>R13. Right of Appeal.</b> 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>	<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>
<p><b>R14. Local Government Ombudsman.</b> The Local Government Ombudsman should</p>	<p>As above.</p>	<p>Await confirm of the Local Government Ombudsman's role in responding to appeals (as</p>

<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>

<p>2011 relating to Disclosable Pecuniary Interests should be abolished.</p>	<p>pecuniary interests is currently a criminal offence.</p>	
<p><b>R19 - Parish Clerks</b> Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.</p>	<p>There is currently a degree of variability in terms of the qualifications held.</p>	<p>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></p>
<p><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.</p>	<p>It is estimated that the majority of Parish Council's adopt FDC's Code.</p>	<p>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></p>
<p><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.</p>	<p>The Conduct Committee currently determines sanctions for Parish Councillors in the event of a breach of the Code having been established.</p>	<p>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.</p>
<p><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.</p>	<p>The Council currently abides by the 2015 Regulations as well as nationally negotiated terms and conditions.</p>	<p>Await amendments to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and ensure that this is appropriately recorded in the Officer Employment Rules.</p>
<p><b>R23 - Whistleblowing Policy</b> The Local Government Transparency Code should be updated to provide that local authorities must ensure that their</p>	<p>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.</p>	<p>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,</p>

<p>whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.</p>		<p>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></p>
<p><b>R24 - Prescribed Persons</b> Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.</p>	<p>Currently councillors are not listed as 'prescribed persons' within the Act.</p>	<p>Await amendments to the Public Interest Disclosure Act 1998 to include Councillors as 'prescribed persons' within the list.</p>
<p><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.</p>	<p>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.</p>	<p>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.</p>
<p><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</p>	<p>FDC currently seeks opportunities to review best practice amongst peers via its participation in a Monitoring Officer Group for the region.</p>	<p>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.</p>
<p><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></p>		
<p><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</p>	<p>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.</p>	<p><i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure Rules as required.</i></p>
<p><b>BP2 Code to specify that Councillors must comply with investigations and to prohibit</b></p>	<p>FDC's conduct procedure rules permit the pe-sift to reject a complaint if it is considered to be</p>	<p><i>Monitoring Officer to review and propose amendments to the Code of Conduct/Procedure</i></p>

<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>