

RULE 8 OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council or of the partner of such person.
- (b) No candidates so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

1.2 Seeking Support for Appointment

- (a) Subject to paragraph (c) of this Rule, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment to the Council. The content of this paragraph will be included in any recruitment information.
- (b) Subject to paragraph (c) of this Rule, no Councillor will seek support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) of this Rule will preclude a Councillor from giving a written reference for a candidate for submission in support of an application for appointment.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CORPORATE DIRECTORS¹

2.1 Where the Council proposes to appoint the Head of Paid Service or a Corporate Director² and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
 - (i) the duties of the officer concerned; and

¹ Amendment approved 26th July 2012

² Amendment approved 26th July 2012

- (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 2(a) to be sent to any person upon request.

3. **APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of the Appointments Panel³.

4. **APPOINTMENT OF CORPORATE DIRECTORS⁴**

- 4.1 In the event that a Corporate Director⁵ post becomes vacant, with the exception of internal reviews whereby the Chief Executive will be responsible for any changes to the Management Structure, the Appointments Panel in conjunction with the Chief Executive will make the appointment.⁶

5. **OTHER APPOINTMENTS**

5.1 **Heads of Service**

The Chief Executive or Corporate Director⁷ will appoint Heads of Service in consultation with relevant Cabinet members and opposition representatives who should sit on the appointment panel.

- 5.2 **Officers below Heads of Service** – appointment of officers below heads of service level is the responsibility of the Chief Executive, Corporate Directors⁸ or their nominee, and may not be made by Councillors.

- 5.3 **Assistants to political groups** – in the event of an appointment of an assistant to a political group such appointment shall be made in accordance with the wishes of that political group.

³ Amendment approved 13th May 2010

⁴ Amendment approved 26th July 2012

⁵ Amendment approved 26th July 2012

⁶ Amendment approved 13th May 2010

⁷ Amendment approved 26th July 2012

⁸ Amendment approved 26th July 2012

6. DISCIPLINARY ACTION

- 6.1 **Suspension** – the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will usually last 8(i) no longer than two months.
- 6.2 (Deleted)8(i)
- 6.3 National conditions of service as supplemented by agreed local arrangements shall apply to all disciplinary actions.
- 6.4 Councillors will not be involved in the disciplinary action against any officers below Heads of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. DISMISSAL

- 7.1 Councillors will not be involved in the dismissal of any officer below head of service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 (Inserted 8 (i)) In this section-
- “**relevant officer**” shall mean the Head of Paid Service, Monitoring Officer and Chief Finance Officer, as the case may be;
- “**Independent Person**” means a person appointed under section 28(7) of the Localism Act 2011;
- “**local government elector**” means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Acts;
- “**members**” means current Fenland District Councillors;
- “**the panel**” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
- “**relevant meeting**” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer;

“relevant independent person” means any independent person who has been appointed by the Council.

(a) A relevant officer may not be dismissed by the Council unless the procedure set out below is complied with -

- The Monitoring Officer, or other relevant officer or the Deputy Monitoring Officer as appropriate, must invite 2 relevant independent persons to be appointed to a panel. In addition the panel will consist of 5 other Councillors to be nominated by Group Leaders in accordance with the requirements of political proportionality.
 - The Monitoring Officer, or other relevant officer or Deputy Monitoring Officer, will appoint to the panel such relevant independent persons as necessary in accordance with the following priority order –
 - (i) A relevant independent person who has been appointed by the Council and who is a local government elector.
 - (ii) Any other relevant independent person who has been appointed by the Council.
 - (iii) A relevant independent person who has been appointed by another council or councils.
 - The Monitoring Officer, or other relevant officer as appropriate, must appoint the panel at least 20 working days before the relevant meeting.
 - Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account-
 - (i) any advice, views or recommendations of the panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the relevant officer.
- (a) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the Localism Act 2011.

RULE 9: PROCEDURE FOR RESPONDING TO CONDUCT COMPLAINTS AND HEARING PANEL PROCEDURE RULES⁹

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 [https://www.fenland.gov.uk/media/1862/Codes-and-Protocols---4-5-and-6/pdf/K_v2_Codes_and_Protocols_4_5_and_6.pdf] 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. **Chairman:** in this procedure references to the Chairman are references to the Chairman of the Conduct Committee and should also be taken to include references to the Vice Chairman of the Conduct Committee. The Vice Chairman will act in the Chairman’s place where he/she is unavailable for any reason to include where a conflict of interest exists.
 - 1.6.4. **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.
 - 1.6.5. **Conduct Committee:** Means the committee with authority to hear conduct complaints referred by the Monitoring Officer whose terms of reference are set out at [Rule 9 of the Constitution - <https://www.fenland.gov.uk/localgov/documents/s5917/Rules%20of%20Procedure%208%209%20and%2010.pdf>

- 1.6.6. **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.
- 1.6.7. **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 [<https://www.fenland.gov.uk/memberconduct>] 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.
- 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. This can be done at any stage in the process if it is felt it will aid decision making.
- 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 in exceptional circumstances. 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 Chairman and 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
- This should only be used if this is also agreed unanimously by the Chairman and Independent Person

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 the decision in the form of a Decision Notice.

2.3. Referral for Investigation

- 2.3.3. The Monitoring Officer, in consultation with the Chairman and 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 Chairman and 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 Chairman and 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 Chairman and 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, Chairman 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, Chairman 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 Chairman, Independent Person 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..¹⁰

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;

¹⁰ Amendment approved 30 April 2020, deleted 7 May 2021

- 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

NEW RULE 10 – AUDIT AND RISK MANAGEMENT COMMITTEE AND AUDIT AND RISK MANAGEMENT DETERMINATION SUB-COMMITTEE PROCEDURE RULES¹¹

AUDIT AND RISK MANAGEMENT COMMITTEE

Statement of purpose

1. Our Audit and Risk Management Committee is a key component of Fenland District Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of our Audit and Risk Management Committee is to provide independent assurance to the members and other parties of the adequacy of the risk management framework and the internal control environment. It provides independent review of Fenland District Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. It also ensures the Council is managing the risk of ensuring services have the resources to deliver on the Council's statutory responsibilities and corporate priorities whilst recognising the Council's financial position.

Governance, risk and control

3. To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
4. To review the AGS prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account Internal Audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
5. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
6. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
7. To monitor the effective development and operation of risk management in the Council.
8. To monitor progress in addressing risk-related issues reported to the committee.
9. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

¹¹ Adopted 14th December 2020

10. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
11. To monitor the counter-fraud strategy, actions and resources.
12. To review the governance and assurance arrangements for significant partnerships or collaborations.

Internal Audit

13. To approve the internal audit charter.
14. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
15. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
16. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
17. To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
18. To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
 - a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
 - b) regular reports on the results of the QAIP
 - c) reports on instances where the internal audit function does not conform to the PSIAS and LGAN, considering whether the non-conformance is significant enough that it must be included in the AGS.
19. To consider the Head of Internal Audit's annual report:
 - a) The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.
 - b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.
20. To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
21. To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.

External audit

22. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
23. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
24. To consider specific reports as agreed with the external auditor.
25. To comment on the scope and depth of external audit work and to ensure it gives value for money.

Financial reporting

26. To review the annual statement of accounts.
27. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability arrangements

28. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
29. To report to Full Council on an annual basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

Membership

30. There shall be a maximum of 11 members of the Council on the Audit and Risk Management Committee with seats allocated to political groups in proportion to the number of seats held by each group on the Council as a whole. Up to three members from Cabinet and three members of the Overview and Scrutiny Panel may be members. A Cabinet member may not be Chairman.

Co-optees

31. The Committee shall be entitled to appoint up to 3 people at any one time as non-voting co-optees. The Committee shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items.

Meetings

32. There shall be no more than 5 ordinary calendar meetings of the Committeeⁱ. In addition, extraordinary meetings may be called from time to time as and when appropriate.
33. The Committee meeting may be called by the Chairman of the Committee, by any three members of the Committee, by the Chief Executive or by the Section 151 officer.

Quorum

34. The quorum for the Audit and Risk Management Committee shall be as set out for committees, in the Council Procedures Rules at Part 4 of the Constitution.
35. The Chairman and Vice-Chairman of the Audit and Risk Management Committee will be drawn from among the Councillors sitting on the Committee and subject to this requirement and that of 34 above, the Committee may appoint such persons as it considers appropriate as Chairman and Vice-Chairman. A member of Cabinet may not be Chairman.

Work programme

36. The Audit and Risk Management Committee will be responsible for setting its own work programme and in doing so shall take into account the wishes of all members on the panel irrespective of political affiliation in line with its terms of reference.

Agenda items

37. Any member of the Audit and Risk Management Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
38. Any five members of the Council who are not members of the Audit and Risk Management may give written notice to the Chief Executive that they wish an item relevant to the functions of the Committee to be included on the agenda.

AUDIT AND RISK MANAGEMENT DETERMINATION SUB-COMMITTEE

Statement of Purpose

39. Our Audit and Risk Management Determination Sub-Committee is a sub-committee of the Audit and Risk Management Committee and has decision-making powers in relation to the following delegated functions:
- (a) To receive reports from officers on strategic employment matters & policies;
 - (b) To consider staffing restructures and changes to the establishment;
 - (c) In collaboration with the Staff Side group to promote effective communications and consultation between the Council and its employees on general personnel matters; and
 - (d) Exercise discretion allowed under the local government pension scheme, including the award of discretionary payments to employees.

Membership & Meetings

40. Member Services, in consultation with the Chair of the Audit and Risk Management Committee shall appoint, as and when necessary, Audit and Risk Management Determination Sub-Committees to consider and determine the matters set out at paragraph 39. Audit and Risk Management Determination Sub-Committees shall comprise six members of the Audit and Risk Management Committee including either the Chair or Vice-Chair but no more than 2 Cabinet Members. Political proportionality rules will apply.

Quorum

41. The quorum for the Audit and Risk Management Determination Sub-Committee shall be 3.

ⁱ Amendment approved 30 April 2020, deleted 7 May 2021