

CONDUCT COMMITTEE - Agenda Item 7



Date:

4th December 2020

Report Title:

Amendments to Code of Conduct

1. Summary

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

2. Key Issues

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

3. Recommendation

It is recommended that:

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

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

1. Background

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

2. Consultation

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

4. Alternative Options Considered

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

5. Implications

5.1 Financial Implications

There are none.

5.2 Legal Implications

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

5.3 Equality Implications

There are none.

APPENDIX 1

PROPOSED AMENDMENTS TO THE CODE OF CONDUCT

CODE 1 CODE OF CONDUCT FOR MEMBERS¹

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

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

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

PART 1

GENERAL PROVISIONS

1 Introduction and Interpretation

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

1.5 In this Code –

“**Meeting**” means any meeting of:-

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

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

2 **Scope**

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

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

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

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

3 **General obligations**

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

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

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

² Amendment approved by MO Decision 30 April 2020

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

3.2 You must not:-

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

(b) bully any person.

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

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

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

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

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

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

You must not:-

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

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

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

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

(d) the disclosure is:-

(i) reasonable and in the public interest; and

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

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

You must not:-

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

You must:-

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