


Agenda Item No:	12	
Committee:	Council	
Date:	14 December 2020	
Report Title:	Amendments to Member Code of Conduct	

1 Purpose / Summary

For Council to consider changes to the Member Code of Conduct as recommended by Conduct Committee.

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.
- 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.
- Conduct Committee considered revisions to the Member Code of Conduct at its meeting on 3rd December 2020. Prior to this, suggested changes were circulated to all FDC Members and Town and Parish Councils for comment.
- 2 comments were received; 1 relating to the conduct process and 1 in relation to the Code of Conduct itself. The 1 comment in relation to the Code of Conduct was incorporated into the suggested changes. Consultation responses are attached at Appendix B

3 Recommendations

- For Council to agree the changes to the Member Code of Conduct as set out in Appendix A and delegate to the Monitoring Officer to update the master copy of the Constitution.

Wards Affected	All
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Chris Boden, Leader of the Council Councillor David Topgood, Chairman of Conduct Committee Councillor Susan Wallwork, Vice-Chairman of Conduct Committee
Report Originator(s)	Carol Pilson, Monitoring Officer Amy Brown, Deputy Monitoring Officer

Contact Officer(s)	Carol Pilson, Monitoring Officer Amy Brown, Deputy Monitoring Officer
Background Paper(s)	Fenland District Council's Code of Conduct for Members Local Government Association draft Model Code of Conduct.

1. Background

Following feedback from Members, draft amendments to the Member Code of Conduct within the Constitution were prepared for consideration by the Conduct Committee. The amendments were intended to provide clarification on certain aspects of the Code for Members and complainants.

2. Consultation

The Conduct Committee Report and the proposed changes to the Code were shared with all Fenland District Councillors and Parish Council Clerks for consideration and feedback. 2 responses were received and shared with Conduct Committee. These responses can be found at Appendix B.

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 (shown with track changes)

CODE OF CONDUCT FOR MEMBERS

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:-

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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:-

The Authority;

- a) Any meetings with the Council's officers;
- b) Any of the Authority's Committees, sub-committees, joint committees, joint sub-committees, or area committees including any virtual meetings¹;
- c) Any site visits to do the business of the Authority;
- d) Any of the Authority's advisory groups and, working parties and panels.

1.6 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 (i.e. a closed or private forum or private message thread is less likely to engage the Code of Conduct) 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:

¹ Amendment approved by MO Decision 30 April 2020

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.

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:-

a complainant,

a witness, or

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 choose to, in their official capacity, civilly express their honestly and reasonably held views, and that is not a breach of the code of conduct provided that their comments are lawful - debate and disagreement do not bring the Council into disrepute, they are a necessary facet of democracy. 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.

4. 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:-
 - reasonable and in the public interest; and
 - 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.

5. 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.

6. 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.

APPENDIX 2 - Consultation Feedback

Feedback	Response
<p>I think the pre-sifting by only three people in a private meeting goes against all transparency we stand for, I believe we should revert back to the original rules where elected members make the decisions in full transparent meetings, the outcomes may well be similar but at least the public will have confidence that the members they elected can be held accountable for any decisions they make.</p>	<p>This comment relates to the conduct procedure, rather than the Code of Conduct itself which is not under consideration at this time.</p>
<p>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:</p> <p>they are talking in a Council meeting or public forum where they are there as part of their Councillor role.</p> <p>they are writing on an online forum that is open to the public (ie. a closed or private forum or private message thread is less likely to engage the Code of Conduct) 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.</p> <p>they are talking to a member of the electorate about matters which pertain to Council business.</p> <p>3.2 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 choose to, in their official capacity, civilly express their honestly and reasonably held views, and that is not a breach of the code of conduct provided that their comments are lawful – debate and disagreement do not bring the Council into disrepute, they are a</p>	<p>Suggestions in bold incorporated into draft code of conduct.</p>

<p>necessary facet of democracy. 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.</p>	
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