

AGENDA ITEM NO. 14	
COUNCIL	
Date	26 JULY 2012
Title	CONSTITUTIONAL AMENDMENTS

1. PURPOSE/SUMMARY

To make amendments to the Councils constitution in order to update the constitution following the introduction of the new conduct arrangements required by the Localism Act 2011. Further amendments relate to the removal of the State of the District Debate and consequential amendments.

- 2. KEY ISSUES**
- Following the implementation of the new member conduct framework on the 1st July 2012 consequential amendments are required to formalise the arrangements and to update the Constitution.
 - Following a request of the Leader proposals are included to remove the requirement for the annual state of the district debate.
 - Following recent reorganisation within the council over the last two years a number of inconsistencies in job titles have arisen these are to be updated in a revised publication of the constitution.

- 3. RECOMMENDATION(S)**
1. That the Council approves the amendments to the constitution set out in appendix 1 with immediate effect.
 2. The Monitoring Officer be authorised to update the Constitution with necessary amendments to ensure consistency of the Constitution.
 3. That the Council authorises the Chief Solicitor to make such typographical amendments as are necessary to produce revised clean text copies of the Constitution.

Wards Affected	All
Forward Plan Reference No. (if applicable)	NA
Portfolio Holder(s)	Councillor Melton, Leader of the Council
Report Originator	Ian Hunt, Chief Solicitor

Contact Officer(s)	Alan Pain Corporate Director and Monitoring Officer Ian Hunt, Chief Solicitor
Background Paper(s)	Constitution

1. Local Conduct Arrangements

Following the commencement of Part 1 Chapter 7 of the Localism Act with respect to Standards and the adoption of the Council of new conduct arrangements on the 10th May 2012 the constitution needs to be formally amended to:

- Remove references to the Standards Committee
- Remove sections relating to the standards framework under the Local Government Act 2000
- Introduce a Conduct Committee to undertake the functions of the Localism Act 2011 in respect of the new conduct frameworks.
- Introduce the necessary rules and process of the Conduct Committee.

The draft code of conduct has been updated from the May report to accurately reflect the regulations on Disclosable pecuniary interests within the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Within the amendments there are provisions to include remuneration by way of allowance for the independent person and the deputy independent person, at a rate of £1000 and £500 per annum. This rate is suggested as being comparable with proposals at neighbouring authorities and will still represent a net saving against the previous allowances paid to members of the standards committee.

2. State of the District Debate

At Council on the 10th May 2012 the Leader requested that consideration be given to the revocation of the requirement of the Annual State of the District Debate each autumn. This debate has usually been included at the November meeting of Council.

The form of the debate is determined in accordance with standing order 13. Although an annual requirement under the constitution the Leader has absolute discretion as to how the debate is structured, and the opportunities for the inclusion within the debate of third parties including members of the public.

There is no legal requirement to hold a state of the district debate. It was included within the guidance on new model constitutions in 2002 with the introduction of the executive model of leadership for the Council. The aim of the debate was to enable a forum for the examination of current issues and concerns which could then be used to shape the development of the corporate plan and budget, prior to their adoption in the following spring.

The council has a range of methods for engaging and consulting on the elements of the draft corporate plan and budget linked to both members and the public. The Council also has a detailed set of public speaking rights and petition policy which enable members of the public to engage with the council and potentially raise matters directly at full council meetings. Both of these have been adopted subsequent to the original introduction of the state of the district debate.

It is therefore open to members to consider that the existing arrangement does not serve the council to its best advantage and that the annual state of the district debate can be removed from the municipal calendar.

3. Updates to the Constitution

Following the restructuring of the corporate management structure over the last 2 years there are a number of places within the constitution where the corporate structure has been changed; this has led to a number of incorrect references to roles which have been removed or subsumed within alternative posts.

These changes are not material to the functioning of the constitution but ensure clarity for all concerned. Accordingly authority is sought for the Monitoring Officer to approve the relevant changes to the constitution to ensure clarity and

Appendix 1

Amendments to the Constitution

Conventions:

Only relevant parts of the sections are included, amendments are explicitly shown rather than to be inferred.

Where part of the existing text is being removed it is struck through: ~~Example~~

Where additional text is added it is underlined: Example

Instructions shown in [square brackets]

Part 1 Summary and Explanation:

1.2 The ~~Standards-Conduct~~ Committee (Article 9)

2.2 The ~~Standards-Conduct~~ Committee trains and advises them on the code of conduct.

6.3 complain to the ~~Standards Board for England-Conduct Committee~~ if they have evidence which they think that a Councillor has not followed the Council's code of conduct;

Part 2 Articles of the Constitution:

Index:

~~9~~ — ~~Standards-Conduct~~ Committee

Article 3 The Citizen and the Council

1.1(d)(iii) the ~~Standards Board for England~~ Conduct Committee about a breach of the Members' Codes of Conduct.

Article 7 – The Cabinet

3.1(b) ~~he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~

4.1(b) they are suspended (individually or collectively) from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

Article 9 – Standards Conduct Committee

1.1 The Council will establish a Standards Conduct Committee.

2.1 The Standards Conduct Committee shall comprise of at least:-

- 5 elected Councillors, other than the Leader (only one of whom may be a member of the Cabinet);
- 5 independent members who are not Councillors or officers of the Council or any other local authority and have not been a Councillor or employee of Fenland District Council within the preceding 5 years; and
- 2 members of town or parish councils in the Council's area who are not members of Fenland District Council.

2.2 Independent members will be selected following interview and will ordinarily be appointed for a four year period. They will normally be eligible for reappointment for one further year term (this will not usually require a further interview). The Council will stagger appointments annually with effect from May 2008 to ensure that sufficient experience is maintained amongst the independent members to promote good quality decision making and high standards of conduct within the Council.

2.3 The Committee shall be chaired by one of the independent members.

2.4 The Committee will appoint, at its first meeting following the annual meeting of the Council, its Chairman and Vice-Chairman for the forthcoming year.

2.5 The Chairman of the Standards Conduct Committee will be able to attend meetings of the full Council to present reports, answer questions and respond to motions on the work of the Committee in accordance with the appropriate provisions of the Rules of Procedure.

2.4 The Conduct Committee shall be entitled to co-opt up to two representatives from Town or Parish Councils from within the District who may sit with the Committee and consider matters before it. That shall have the right to speak and engage with the debate of the committee however they do not have a right to vote.

2.5 The Conduct Committee will be advised by an Independent Person appointed in accordance with section 28 of the Localism Act 2011. The Independent Person shall be consulted in accordance with Rule 9 of the Constitution but shall not be entitled to vote.

~~3.1 The independent members and the town or parish councillors will be entitled to vote at meetings. The quorum for a meeting of the Committee is two members of the Council and one independent member. A town or parish councillor must be present when matters relating to town and parish councils or their members are being considered.~~

~~3.2 Where at least one independent member would have been present for the duration of the meeting but for the fact that (s)he was prevented or restricted from participating in any business of the authority by virtue of its Code of Conduct, the requirement to include at least one independent member shall not apply.~~

4.1 The Standards Conduct Committee will have the following role and functions in respect of the District Council and its members and town and parish councils and their members :

- dealing with reports from a case tribunal or interim case tribunal or any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;

- ~~dealing with the initial assessment of Member misconduct allegations referred to it under the Local Government and Public Involvement in Health Act 2007 and any appeals arising~~
- determining allegations made against members of the Council or Town or Parish Councils in respect of breaches of the Code of Conduct.
- selecting the Independent Person as defined in section 28 of the Localism Act 2011.

~~4.2 The Standards Committee shall have the following other functions in respect of the District Council and its members:~~

- ~~-consideration of any reports from officers or from District Audit relating to probity and formulating recommendations to the Council and Cabinet thereon;~~
- ~~-developing local protocols to address concerns regarding abuse of procedures~~

~~5.1 The provisions of Schedule 12, paragraph 39 of the Local Government Act 1972 shall apply to meetings of the Standards Committee, ie all questions will be decided by majority of the members present and voting and the Chairman will have a casting vote.~~

Article 12 Officers

~~4.3 Supporting the Standards Conduct Committee - the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.~~

~~4.4 Receiving Reports - the Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of case tribunals.~~

~~4.5 Conducting Investigations - the Monitoring Officer will conduct investigations in matters referred by Ethical Standards Officers and make reports and recommendations in respect of them to the Standards Committee.~~

Part 3 Responsibility for Functions:

Definitions of Memberships:

Replace Standards committee composition with:

<u>Conduct Committee</u>	<u>Up to 5 members of the Council.</u> <u>The Conduct Committee shall be advised by the Independent Person appointed in accordance with section 28 of the Localism Act 2011.</u> <u>The committee may appoint up to two non voting members who are Town or Parish Councilors.</u>
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Table 2 Responsibility for Council Functions:

<p><u>Standards Conduct Committee</u></p>	<p>To monitor and advise the Council about the operation of its Code of Conduct for Members and Officers in the light of best practice, changes in the law, guidance from the Standards Board for England and recommendations of case tribunals under Section 80 of the Local Government Act 2000</p> <p>To determine applications for dispensations from Fenland and Town/ Parish Councillors</p> <p>To determine any complaints of a breach of The Members' Code of Conduct referred to it by the Standards Board for England or directly under the arrangements set out pursuant to s57A of the Local Government Act 2000</p>	<p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
	<p>Assistance to members, co-opted members and officers of the Council</p> <p>To ensure that all members, co-opted members and officers of the Council have access to training in all aspects of the relevant Code of Conduct, that this training is promoted actively and that members and officers are aware of the standards expected from them under the codes.</p> <p>Other Functions</p> <p>Functions relating to standards of conduct of members and officers under any relevant provision of, or regulations made under, the Local Government 2000</p> <p>To advise the Council on the adoption or revision of a Protocol for Member/Officer relations</p> <p>Adoption of a Code of Conduct for Planning Matters and monitoring operation of the code.</p> <p>Adoption and monitoring of policy and procedures for the disclosure of information under the Public Interest Disclosure Act 1999 (Whistleblowing)</p> <p>Town/Parish Councils</p> <p>The promotion and maintenance of high standards of conduct within the Town and Parish Councils within Fenland <u>and the determination of complaints made against these members in pursuance to the Code of Conduct.</u></p>	

Table 4

- 47 ~~To act as the principle point of contact for the Standards Board of England and to investigate matters referred to the Council for Local Investigation and to provide advice and support to Members, the Standards Committee and all Parish Councils within the District. Conduct Committee and to undertake case management and investigations on behalf of the Conduct Committee in respect of Members of the District Council and Towns and Parish Councils.~~
- 47AA. To be the Proper Officer for the receipt of written requests for Dispensations within the meaning of section 33(1) of the Localism Act in respect of Disclosable Pecuniary Interests
- 47AB. To consider and grant requests for Dispensations from section 31(4)(a) of the Localism Act 2011 for the right to speak in respect of section 33(2)(e) where a member wishes has a Disclosable Pecuniary Interest and there is a public speaking right at the meeting.

Appendix A

Localism Act 2011

Part 4 Rules of Procedure:

Rule 1 Council Procedure Rules (Standing Orders)

13 State of the District Debate
[Delete entire section]

13. Effect of Interests

13.1 Any Member who has a Disclosable Pecuniary Interest (as defined in Part 2 of the Member Code of Conduct) in a matter under consideration and does not have a Dispensation shall leave the room containing the meeting for the duration of the consideration of the matter.

27.1 [add] These provisions are subject always to Rule 13

28.1 Such Rights shall not entitle any member to be present in the room when they would otherwise be excluded under Rule 13.

Rule 2 Access to Information Rules

10.4 [Within table]

Category of exempt information relating to Standards Committee	Condition	Public Interest
7(A) Information which is subject to any obligation of confidentiality	This will not apply to all the papers before a Standards Committee but it likely to need careful consideration in the circumstances of a Local Investigation or determination.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7(B) Information which relates in any way to matters concerning national security		Exempt information if and so long as in the circumstances of the

		case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7(C) The deliberations of a Standards Committee or of a sub-committee of a Standards Committee established under the provisions of Part 3 of The Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5), or 71(2) of that Act.	This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Rule 9 Standards Committee Procedures
[Delete in entirety]

Rule 9 Conduct Committee Procedures¹

1 Introduction

- 1.1 These procedures govern the working practices of the Conduct Committee when considering conduct matters of Councillors of both Fenland District Council and the Town and Parish Councils within the Fenland Area.
- 1.2 The Conduct Committee performs the functions set out in Part 1 Chapter 7 of the Localism Act 2011.
- 1.3 Members of Fenland District Council are obliged to follow the Code of Conduct detailed in Part 5 of the Councils Constitution. Each Town or Parish Council is required to adopt their own Code of Conduct and copies can be obtained either from their own websites or the Town or Parish Clerk.

2 Definitions

- 2.1 The following definitions apply to this Procedure:

Pecuniary Interests Shall be a “Disclosable Pecuniary Interest” as defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

3 Conduct Committee

¹ Revised scheme approved 25th September 2008

- 3.1 The Conduct Committee is comprised of 5 members of Fenland District Council, all members have equal speaking and voting rights.
- 3.2 The Committee is joined by 2 members selected from Town and Parish Councils, they are co-opted on to the committee by the committee. These members are invited to speak and take part in the debate but do not have a right to vote.
- 3.3 The Committee is advised by an Independent Person or their deputy. They are appointed by the Council on an annual basis, prior to their first appointment this will be following an open advert. The Independent Person shall be appointed in line with the requirements of the Localism Act 2011.
- 3.4 The Independent Person does not sit on the committee and does not have a right to join the debate or vote. However when exercising their functions the Committee must have regard to the advice of the Independent Person.
- 3.5 The Committee is governed by the Quorum rules set out in standing order 7. However Town and Parish Members and the Independent Person do not count for the purposes of establishing Quorum.

4 Functions of the Conduct Committee

- 4.1 The Conduct Committee is primarily charged with monitoring and managing the Councils responsibilities under Chapter 7 of Part 1 of the Localism Act 2011, in respect of Member Standards.
- 4.2 The Committee Shall:
- 4.2.1 Monitor the Code of Conduct and make recommendations to Full Council where it considers that changes are required.
- 4.2.2 Provide guidance to Members on the Code of Conduct
- 4.2.3 Determine Complaints made against members under the Code of Conduct
- 4.2.4 Monitor the Register of Members Interests and report to Full Council if any changes are required as to its contents.
- 4.2.5 Determine requests for dispensations

5 Complaints

- 5.1 Fenland District Council is the responsible authority for receiving and determining complaints against Councillor Conduct for both District Councillors, and the Town and Parish Councillors within the District.

5.2 Receipt of Complaints

- 5.2.1 All complaints about Councillor Conduct should be forwarded to the Monitoring Officer at Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ, or by email on monitoringofficer@fenland.gov.uk.
- 5.2.2 All complaints will be acknowledged in writing, where the complaint is unclear or does not relate to a serving Councillor under the jurisdiction of the Conduct Committee then the complaint will be declined by the Monitoring Officer.

- 5.2.3 Where the Complaint relates to a failure to act appropriately in respect of a Pecuniary Interest, this may be a criminal offence under the terms of section 34 of the Localism Act 2011.
- 5.2.4 If the Complaint relates to a failure to register an interest and the Monitoring Officer is in a position to confirm that the interest is registered they will do this. Otherwise the matter will be referred to Cambridgeshire Constabulary in the first instance as they have appropriate jurisdiction. The Complainant will be informed of the referral.
- 5.2.5 In all other cases the Monitoring Officer will contact the subject member giving them 7 days to make an initial response to the complaint. In order to establish what if any facts are agreed and whether or not the Member accepts the Complaint.

5.3 Informal Resolution of Complaints

- 5.3.1 Where the Member accepts the complaint the Monitoring Officer will assess whether or not an informal resolution can be achieved between the Member and the Complainant. If informal resolution can be achieved then the complaint will not proceed further.
- 5.3.2 Initial Consideration of Complaints
- 5.3.3 The Conduct Committee will having reviewed the Members initial response to the complaint or after the expiry of the 7 day period assess the complaint and determine whether or not there is a reasonable prospect of the complaint being proven based on the information held.
- 5.3.4 If it is determined that the complaint may disclose a breach of the Code of Conduct if proven additionally the following criteria will be assessed to determine whether or not the complaint merits investigation:
- 5.3.4.1 Has the Complaint already been investigated, or is it already the subject of investigation?
- 5.3.4.2 Is the Complaint more appropriately dealt with through another regulatory channel?
- 5.3.4.3 Is the complaint about something which happened so long ago that there would be little benefit in taking action now?
- 5.3.4.4 Is the complaint too trivial to warrant further action?
- 5.3.4.5 Does the complaint appear to be malicious or simply tit for tat?
- 5.3.5 Where it is considered that the complaint does not merit investigation then the decision will be reported to the Member and the Complaint.
- 5.3.6 The Conduct Committee may from time to time give directions and guidance to the Monitoring Officer to enable them to decline complaints in advance of a member meeting; guidelines may be given in respect of frivolous, vexatious or repeated complaints.

5.4 Investigation of Complaints

- 5.4.1 Where a matter is considered suitable for investigation it will be for the Monitoring Officer in consultation with the Chairman of the Conduct Committee and the Independent Person to determine the level of investigation required and the scope of the investigation.
- 5.4.2 All investigations will need to satisfy the following outcomes:
- 5.4.2.1 Proportionate
- 5.4.2.2 Timely
- 5.4.2.3 Conducted in accordance with accepted investigation protocols.
- 5.4.2.4 Obtain relevant documents to establish background

- 5.4.2.5 Give the complaint and the Member the right to put their case and respond to the information found.
- 5.4.3 In the event of a material change of circumstances the Monitoring Officer in consultation with the Chairman of the Conduct Committee may terminate the investigation and report this to the Conduct Committee. Examples of when this may be appropriate are as follows:
- 5.4.3.1 Compelling evidence is found showing the Member did not breach the Code of Conduct.
- 5.4.3.2 The Member has resigned (or not been re-elected) from the relevant Council, Town or Parish Council.
- 5.4.3.3 The Member is seriously ill, or
- 5.4.3.4 The Member has died.
- 5.4.4 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.
- 5.4.5 Once an investigation report is received by the Monitoring Officer they will assess the report and consider if it meets the above criteria. If the Monitoring Officer does not consider that this has been met they will ask the Investigating Officer to undertake further work or report the reason for their failure to conclude a full report.
- 5.4.6 Consideration of the Investigation Report
- 5.4.7 Where in the view of the Investigating Officer the Member has not breached the Code of Conduct then the Investigating Officers Report will be taken to the Conduct Committee for their notification.
- 5.4.8 In the event that the Investigating Officer believes there to be a breach of the Code of Conduct or where they have not been in a position to satisfy the tests in 5.4.2 the matter will be referred to the Conduct Committee for a Hearing.
- 5.4.9 Hearing Procedure
- 5.4.10 Prior to the hearing the Monitoring Officer will contact the Member and any relevant witnesses in order to arrange a date at a date and time which will enable attendance by all relevant parties.
- 5.4.11 If the Councillor is not present at the start of the hearing the Chairman shall ask the Monitoring Officer whether the Councillor or the Councillor's Representative has indicated their intention not to attend the hearing.
- 5.4.12 If the Councillor has indicated that they do not intend to be present the Conduct Committee shall consider if it is able to continue to hear the matter in their absence. The Committee shall have regard to the following factors:
- 5.4.12.1 Any reasons provided by the Councillor
- 5.4.12.2 Any representative or written representations present from the Councillor
- 5.4.12.3 The views of the Councillor as to whether the hearing should proceed
- 5.4.12.4 Any comments from the Monitoring Officer
- 5.4.13 If the Committee are satisfied that the hearing can proceed in the absence of the Councillor without being unreasonable then the hearing can proceed, however if this is not the case then the hearing should be adjourned to a later date.

- 5.4.14 A Member will be entitled to have a representative attend the hearing with them. This representative may be a solicitor or barrister, however no costs will be recoverable from Fenland District Council for any representative in attendance.
- 5.4.15 The Committee will hear the Investigating Officers report and any witnesses first, and the Member or their representative may ask any relevant questions of the Investigating Officer or their witnesses.
- 5.4.16 The Member will then have an opportunity to present their case including any witnesses, the Investigating Officer will have the right to question the Member or their witnesses.
- 5.4.17 At the conclusion of each sides case the Investigating Officer and then the Member will be given an opportunity to present a summary of their position to the Committee.
- 5.4.18 The Independent Person will be invited to provide their view of the Facts as presented and whether or not these represent a breach of the Code of Conduct.
- 5.4.19 Although no formal time limits will be imposed on the presentations the Chairman will have the right to curtail excessive presentations.
- 5.4.20 The Committee will then determine whether or not there has been a breach of the Code of Conduct and if appropriate what sanction to be imposed.
- 5.4.21 The Committee shall have the right to impose the following sanctions (either individually or in combination):
- 5.4.21.1 Formal Letter of reprimand.
 - 5.4.21.2 Motion of censure at the Conduct Committee.
 - 5.4.21.3 Recommendation to Full Council (or the Town or Parish Council) for a motion of Censure.
 - 5.4.21.4 Formal request to the Members Group Leader for their removal from Committee(s).
 - 5.4.21.5 Offer additional training for the member
 - 5.4.21.6 Withdraw facilities (or recommend to the Town or Parish Council) that facilities such as computers, email, or internet access be suspended for a period of time.
 - 5.4.21.7 Exclude (or recommend to the Town or Parish Council) the Member from the Council's offices or other premises or restrict access to certain officers; excepting access as necessary for the attendance at meetings of the Council, Committees or Sub-Committees.
 - 5.4.21.8 Publication of formal notification of breach in a newspaper circulating in the area.
- 5.4.22 At the end of the hearing the Member and the Complainant and any relevant Town or Parish Council will receive written notification of the Conduct Committees determination.

6 Appeals

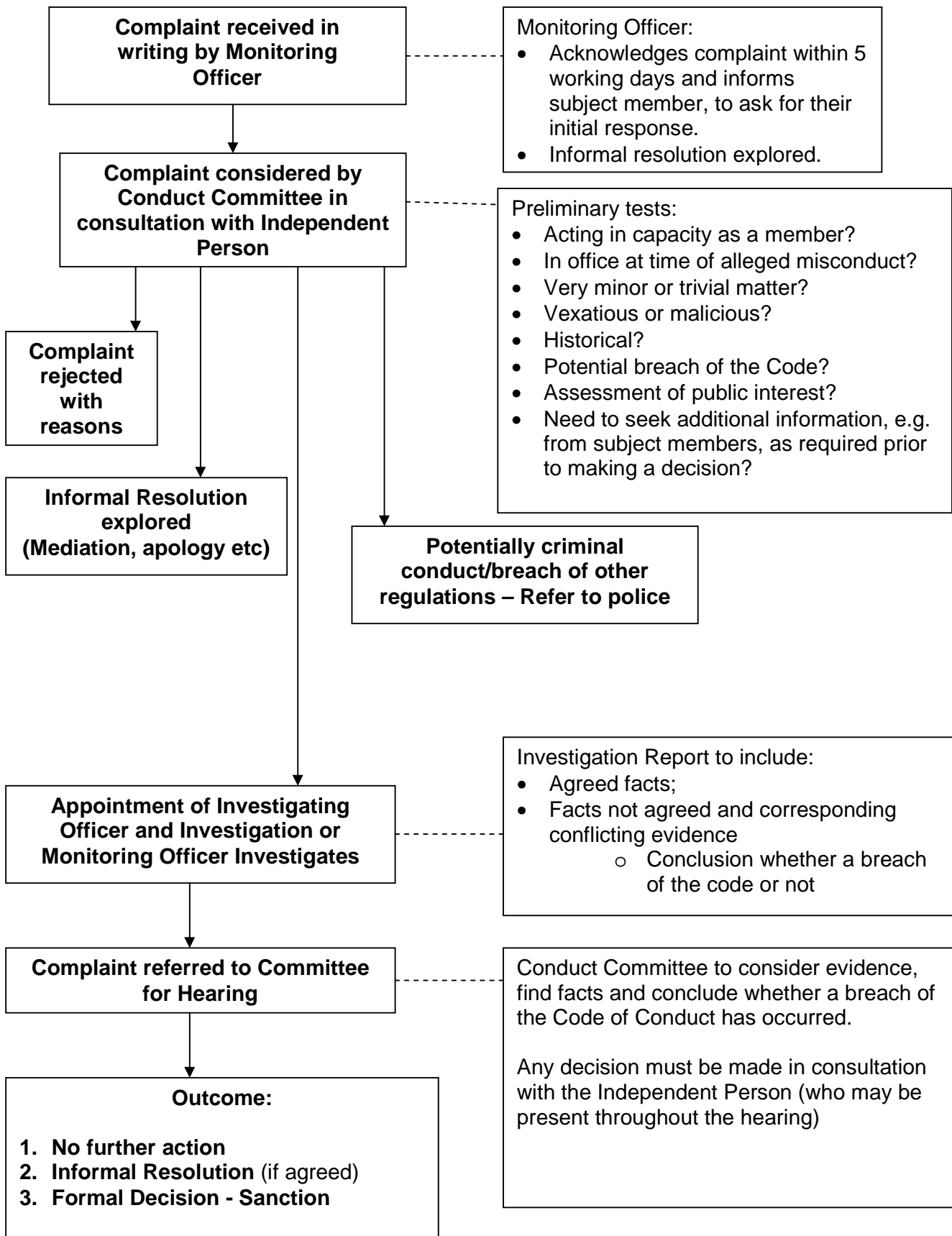
- 6.1 There are no direct rights of appeal against the decisions of the Monitoring Officer or the Conduct Committee. If your complaint has not been handled in what you consider to be a satisfactory way you are entitled to raise the issue with the Local Government Ombudsman.

7 Dispensations

- 7.1 The Conduct Committee shall have the right to determine all applications for Dispensations in respect of Pecuniary Interests

- 7.2 A member wishing to receive a dispensation may write to the Monitoring Officer setting out the basis for their Pecuniary Interest and the grounds upon which the dispensation is sought
- 7.3 Dispensations may be granted if the Conduct Committee considers that any of the following grounds are met:
- 7.3.1 considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business (be that the Council, Cabinet, or any Committee) as to impede the transaction of the business,
- 7.3.2 considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- 7.3.3 considers that granting the dispensation is in the interests of persons living in the authority's area, or
- 7.3.4 considers that it is otherwise appropriate to grant a dispensation
8. A Dispensation may last for such a period as defined in the decision; but in any event for no longer than four years.

Summary of Complaint Process



Part 5 Codes and Protocols

1 Code of Conduct for Members
[Delete in entirety]

1 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:-

- 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;
- d) Any site visits to do the business of the Authority;
- e) Any of the Authority's advisory groups and, working parties and panels.

1.6. 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.

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

3.1. You must treat others with respect.

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.
- (e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute.

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:-
 - (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.
- 5. You must not: 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.

PART 2 **INTERESTS**

7. Disclosable Pecuniary Interests

- 7.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions.
- 7.2. You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State (Appendix A) and either:
 - (a) it is an interest of yours, or
 - (b) it is an interest of:
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners,

and you are aware that that other person has the interest.

8. Registration of Disclosable Pecuniary Interests

- 8.1. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of:
 - (a) this Code being adopted or applied by the Authority; or
 - (b) your election or appointment (where that is later),
notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests you have at that time.
- 8.2. Subject to paragraph 12 (sensitive interests), **you must**, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new Disclosable Pecuniary Interest or change.

9. Disclosable Pecuniary Interests in matters considered at meetings

- 9.1. If you attend a meeting and have and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at that meeting, –
 - (a) **you must disclose** to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. **If you have not already done so, you must notify the Authority's Monitoring Officer** of the interest before the end of 28 days beginning with the date of the disclosure, and
 - (b) whether the interest is registered or not you **must not** – unless you have obtained a dispensation from the Authority's Monitoring Officer –
 - (i) participate, or participate further, in any discussion of the matter or vote at the meeting; or
 - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

Note: Council Procedure Rule 13 requires you to leave the room where the meeting is held while any discussion or voting takes place.

10. Other Interests

- 10.1. In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 10.2. You have a "non-pecuniary interest" in an item of business of your authority where -
- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
 - (b) it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

12. Sensitive interests

- 12.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraphs 8 9 and 10.

Note: Register of interests

Interests under paragraph 8 will be notified to the Monitoring Officer on a form approved for the purpose by the Monitoring Officer and for this purpose will be deemed the "register of interests". A copy of the register will be available for public inspection and will be published on the authority's website.

13 Gifts and Hospitality

- 13.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

Appendix A

Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to Disclosable Pecuniary Interests. These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

1 Notification of Disclosable Pecuniary Interests

<u>Disclosable Pecuniary Interest</u>	<u>description</u>
<u>Employment, office, trade, profession or vocation</u>	<u>Any employment, office, trade, profession or vocation carried on for profit or gain.</u>
<u>Sponsorship</u>	<u>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</u> <u>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</u>
<u>Contracts</u>	<u>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</u> <u>(a) under which goods or services are to be provided or works are to be executed; and</u> <u>(b) which has not been fully discharged.</u>
<u>Land</u>	<u>Any beneficial interest in land, which is within the area of the relevant authority.</u>
<u>Licences</u>	<u>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</u>
<u>Corporate tenancies</u>	<u>Any tenancy where (to M's knowledge)—</u> <u>(a) the landlord is the relevant authority; and</u> <u>(b) the tenant is a body in which the relevant person has a beneficial interest.</u>
<u>Securities</u>	<u>Any beneficial interest in securities of a body where—</u> <u>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</u> <u>(b) either—</u> <u>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</u> <u>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</u>

These descriptions on interests are subject to the following definitions:
"the Act" means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land, which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“Member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election
- Fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest (without a dispensation)
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

Part 6 Members Allowances Scheme

Schedule of Allowances:

1(ii)

Chairman of ~~Standards~~ Standards Conduct Committee

£1,586 p.a.

1(iv) ~~Co-optees~~ **Independent Persons Allowance**

Payable to Independent ~~Members of~~ Person advising the ~~Standards~~ Standards Conduct Committee - £623 ~~1000~~ 1000 p.a. and for the Deputy Independent Person £500 p.a.