

Rother District Council

Report to	-	Audit and Standards Committee
Date	-	9 December 2019
Report of the	-	Monitoring Officer
Subject	-	Code of Conduct Complaints Monitoring and Other Standards Matters

Recommendation: It be **RESOLVED:** That

- 1) the report be noted;
 - 2) the Arrangements for Dealing with Member Complaints and the Monitoring Officer Protocol be amended to include the requirement for Subject Members to respond to suggested local resolution requests within five working days; and
 - 3) the requirement for Members to complete a declaration of interest form for each declaration cease from January 2020.
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Monitoring Officer: Lisa Cooper

Introduction

1. This routine report sets out brief details of the complaints received since the Committee's last meeting held in June at which complaints were considered; as agreed by the Committee, this report will present cases on a six monthly rolling basis. It also advises the Committee of other standards related matters that have been dealt with since the Committee's last meeting.

Complaints Received

2. Since the last meeting there have been seven valid Code of Conduct complaints made against two Parish Councillors and four District Councillors. In accordance with the wishes of the Committee, as none of the complaints have resulted in an investigation and a finding of fault, these are presented anonymously. The view of our Independent Persons was sought and concurred with my proposed action in each case; details of each case are provided at Appendix 1.
3. In case C19-01, whilst the Subject Member ultimately agreed to the proposed recommended local resolution there was a delay of some nine working days; this was unnecessary, held up the timely conclusion of this complaint and caused additional administrative work in contacting the Subject Member on more than one occasion and involving their Group Leader.
4. In light of this experience, it is recommended that the time in which a Subject Member must respond to the Monitoring Officer's (MO) proposed recommended local resolution, either agreeing or not agreeing to the suggested action, needs to be clarified. It is recommended that the Subject Member is given five working days to respond to any request from the MO; failure to do so will result in a subsequent report to the Audit and Standards

Committee, whether or not the local resolution was agreed to. This requirement can be added to the Arrangements for Dealing with Member Complaints and the MO Protocol procedural documents, which is within the powers of the Audit and Standards Committee to make amendments thereto.

5. During this time I have also received five non-valid complaints. These were complaints against three District Councillors and two Parish Councillors. On four occasions (three District / one Parish) the conduct which gave rise to the complaints was carried out in their private lives (the Code only applies when conducting the business of the authority) and the other related to the actions of the Parish Council as a whole and not an individual Parish Councillor.
6. An anonymous complaint was also received from a “Mrs Taxpayer” against a District Councillor which was not entertained in accordance our procedures. Whilst a complainant can request that their identity be withheld from the Subject Member in certain circumstances, they do have to be open and transparent with the Monitoring Officer; despite contact, requesting their name and contact details no further contact was received.
7. There are no outstanding complaints at the current time.

Other Standards Matters

Training

8. As Members may be aware, within this Committee’s functions and delegations is a duty to promote and maintain high standards of conduct by Members of the Council. The following paragraphs highlight other standards matters that have taken place since the Committee’s last meeting.
9. A training session on ethics and probity took place on Thursday 25 July; the training was delivered by Hoey Ainscough Associates Ltd, a company set up in 2012 following the demise of Standards for England. As well as all Members, an invitation was extended to all parish and town clerks, the Council’s Independent Persons and the parish and town Council representatives on the Committee. Thirteen Members, one Independent Person, one Parish & Town Councillor and one Clerk and one Deputy Clerk attended. The event received mixed reviews and the Member Development Task Group considered the feedback at its September meeting and considered that this training could have been delivered in-house. The advantage of receiving training from external consultants who deal with standards matters across the country is the ability to provide numerous case studies and talk about real cases without the fear of talking about local cases; if this training is delivered in house this ability is lost.

Declarations of Interest

10. Following a number of meetings where the declarations of interest made were not clear, I sent a reminder to all Members in September requesting that when declaring interests at meetings they must state clearly to which item the interest relates as well as the nature of the interest. This not only assists Democratic Services to record declarations of interest accurately but provides for better transparency for the benefit of any members of the public present. Members were also reminded to seek my advice prior to any meeting if they

are unsure as to what they should be declaring. It is pleasing to report that a number of Members do seek my advice prior to meetings, particularly in relation to planning matters.

11. With regard to declarations of interest, it is recommended that the requirement to complete a declaration of interest form each time a Member makes a declaration ceases from January 2020. This procedure was adopted by Rother District Council when the then new Code of Conduct was first introduced back in 2002; there is no formal requirement for this form to be completed and no other East Sussex authority adopted this process. At the time it was considered that the form would assist Members in declaring and Democratic Services staff in recording interests.
12. Interests declared at all meetings are recorded and included within the Minutes. The new committee management software system provides a search facility that allows a member of the public to search the declarations of interests made by each individual Member.
13. The cessation of this process will provide a cost saving in terms of reduction on paper usage and staff administrative time both pre and post meetings. Members will need to ensure that declarations are clearly stated at meetings as there will be no paper form as a back-up.

Parish and Town Councils

14. At the request of Battle Town Council on Tuesday 16 July I provided an information session to Members of Battle Town Council on their Code of Conduct, declarations of interest and the Member Complaints process; this was well received.
15. As reported at the last meeting, following the influx of new Members to the Town and Parish Councils across the district, I can advise that there remain one or two outstanding registers of interests for newly elected or co-opted Members which are actively being pursued.

Conclusion

16. The Committee is asked to note the report, consider the proposal to agree a time limit by which a Subject Member must respond to the MO's proposed local resolution and consider the recommendation to cease using the declaration of interests form.

Mrs Lisa Cooper
Monitoring Officer

Risk Assessment Statement

The Audit and Standards Committee has a duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council. Monitoring the number of complaints received and the nature of the complaints will enable the Committee to identify any trends and make recommendations for additional training and guidance as appropriate. Failure to do so could result in continued poor Member conduct, an increase in complaints administration and reputational damage for the Council.

MEMBER CODE OF CONDUCT COMPLAINTS SUMMARY SHEET

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
C19-01	3 July 2019	Member of the public / Manager of an Independent Living Retirement Building	Rother District Councillor	<p>Failing to leave the managed building when asked to do so; acting in a defensive and slightly threatening manner.</p> <p><u>Decision:</u> Local resolution.</p> <p><u>Comment:</u> The District Councillor agreed to write a letter of apology for any distress caused and has agreed not to attend the building again. The complainant was satisfied with the local resolution.</p>
C19-02	17 July 2019 (accepted as a valid complaint)	Member of the public representing a number of local residents	Ticehurst Parish Councillor	<p>Alleged failure to declare a Disclosable Pecuniary Interest (DPI) at meetings when the Neighbourhood Plan was discussed.</p> <p><u>Decision:</u> No further action (dismissed).</p> <p><u>Comment:</u> There was no evidence to substantiate the claim that the Councillor had failed to declare a DPI and subsequently taken part in the decision making process.</p>
C19-03	23 July 2019	Member of the public representing a number of local residents (same complainant as C19-02 above)	Ticehurst Parish Councillor	<p>The complainant in respect of C19-02 above felt intimidated by comments made by a Councillor that were published in the Parish Council minutes.</p> <p><u>Decision:</u> No further action (dismissed).</p> <p><u>Comment:</u> The comments minuted were a</p>

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				statement of fact and not considered to be intimidating in any way. The Parish Council was requested to make an amendment to the Parish Council Minutes which were not factually correct with regard to C19-02 above. This was duly complied with.
C19-04	7 August 2019	Member of the public	Rother District Councillor	<p>Pre-determination evidenced by party literature and alleged failure to declare a Personal and Prejudicial Interest in a planning application as pre-determined.</p> <p><u>Decision:</u> No further action (dismissed).</p> <p><u>Comment:</u> The information provided in the party literature was a statement of fact at that time and was not attributable to an individual Member. The planning application had been subject to outline planning some three years previous; the scale and mix of development was therefore already agreed.</p>
C19-05	30 September 2019	Member of the public	Rother District Councillor	<p>Allegedly using position to confer an advantage for a close friend who was objecting to a planning application.</p> <p><u>Decision:</u> No further action (dismissed).</p> <p><u>Comment:</u> The Councillor initially attempted to call-in the application to Planning Committee but when made aware of the procedure and restraints due to relevant interests, requested a fellow Councillor to call-in the application, in accordance with the call-in procedure.</p>

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
C19-06	22 October 2019	Member of the public	Rother District Councillor	<p>Failure to act in accordance with s149 and s20 of the Equalities Act 2010; conspiring with a resident to garnish objections to the complainants' planning application; refusal to release emails concerning the complainant and this matter.</p> <p><u>Decision:</u> No further action (dismissed).</p> <p><u>Comment:</u> There was no evidence to substantiate claims; Councillor was performing role by advising a resident on procedure. Emails had been released.</p>
C19-07	18 November 2019	Rother District Councillor	Rother District Councillor	<p>Sent a politically motivated email to other Members on the Council from RDC email account, in addition this was during the pre-election period contrary to the Council's Code of Conduct at Paragraph 6 (2) (b) and the guidelines and restrictions placed on the Council and Councillors during this period.</p> <p><u>Decision:</u> Local resolution.</p> <p><u>Comment:</u> The Subject Member admitted the breach and was regretful; agreed to send an apology to all Members who had received the original email acknowledging the breach.</p>