

## Rother District Council

Report to	-	Audit and Standards Committee
Date	-	22 June 2020
Report of the	-	Monitoring Officer
Subject	-	Member Complaints - Public Interest Test

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**Recommendation:** It be **RESOLVED:** That delegated authority be granted to the Monitoring Officer, in consultation with the Chairman of the Committee and the Independent Persons, to devise and agree a revised public interest test to be incorporated into the Council's complaint documentation and all Members advised accordingly.

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**Monitoring Officer: Lisa Cooper**

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### Introduction

1. As Members may recall, at the Committee's last meeting that considered standards related matters, consideration was given to the Committee on Standards in Public Life's (CSPL) Review of Local Government Ethical Standards and the officer assessment of the Council's current performance against the best practice recommendations that had also resulted from the CSPL's review.
2. At that meeting (9 December 2019) it was agreed that officers undertake research into other local authority public interest tests to see whether this aspect of the Council's complaint processes / documentation could be improved.
3. This report sets out the results of the research with other local authorities and Hoey Ainscough Associates Limited, the recognised national experts on local government conduct issues.

### Current RDC Position

4. Currently, the following criteria is set out in the Council's Arrangements for Dealing with Member Complaints document, which is essentially this Council's public interest test:

*The Monitoring Officer will decide a complaint does not merit investigation if:*

- *It is about someone who is no longer a Member of the Council, or*
- *There has been a delay of more than six months since the matter complained of occurred (unless the Monitoring Officer is of the view that exceptional circumstances exist to allow an extension of time), or*
- *The complaint appears to be minor, politically motivated, vexatious and malicious or it is not otherwise appropriate to warrant further action.*

*This list is not intended to be exhaustive and the Monitoring Officer may decide that a complaint does not merit formal investigation for any other reason which appears to them to be appropriate.*

5. During the last year, and with particular reference to the Neighbourhood Planning process, there has been confusion and concern from the public that individuals working with parish and town councils as volunteers are not covered by the relevant code of conduct and complaints regime. It may be worth clarifying that volunteers working for local parish and town councils are not elected Members and are not covered by the relevant code, as part of any improved public interest test.

## **Research**

6. Having conducted research with our neighbouring authorities the public interest test is incorporated within the general arrangements' documents, as ours above and is broadly the same - there are no separate clear public interest tests. The experience of Hoey Ainscough Associates Limited indicates that most councils simply say something very general along the lines of 'the Monitoring Officer will only investigate a matter if he or she believes it is in the public interest to do so' or may list some factors such as 'if the member is no longer a member', 'if the matter has already been investigated', 'if a long time has elapsed since the alleged behaviour' etc.
7. The public interest tests tend to be built around factors which were set out in guidance produced by the then-Standards Board for England to help standards committees make an initial assessment. This was in the form of questions to ask oneself and lines to take should a complaint be rejected on those grounds.
8. There is of course a balance to be struck between having a set of 'simple/short criteria' which is easy to read and more detailed criteria which set out to cover all bases. One example provided by Hoey Ainscough Associates Limited is from Gateshead Council which, although does not specifically call itself a public interest test, seems to reflect the Standards Board old criteria. This is set out at Appendix A.
9. If Members are minded to support the development of a similar detailed public interest test for Rother District Council, it is requested that delegated authority be granted to the Monitoring Officer, in consultation with the Chairman of the Committee and the Independent Persons (IPs), to devise and agree a revised public interest test to be incorporated into the Council's complaints documents. The delegation is requested to enable the amendment to be made as soon as practical and not be subject to a delay until the Committee's next meeting at which standards matters are considered. All Members will be advised of any changes made.

## **Conclusion**

10. The Committee is asked to consider whether the Council strengthens its current public interest test and if agreed, grant delegated authority to the Monitoring Officer, Chairman and IPs to devise and establish this document to be incorporated into the Council's complaint documentation.

Mrs Lisa Cooper  
Monitoring Officer

**Risk Assessment Statement**

Failure to consider good practice guidelines and implement appropriate changes could result in the Council's Member Complaint Processes being ambiguous and open to challenge.

**Gateshead Council**

**Assessment criteria for complaints against councillors**

The following criteria will be taken into account in deciding what action, if any, to take:

1. Has the complainant submitted enough information to satisfy the Monitoring Officer that the complaint should be referred for investigation or other action?

If not:

The information provided is insufficient to make a decision. So unless, or until, further information is received, no further action will be taken on the complaint.

2. Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority?

If yes:

The complaint will be referred to the monitoring officer of that other authority to consider. The former Member would be contacted in this instance and advised of the referral.

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If yes:

There may be nothing more to be gained by further action being taken.

4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now?

If yes:

Further action may not be warranted.

5. Does the complaint appear too trivial to justify the cost or inconvenience of further action?

If yes:

Further action will not be warranted.

6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If yes:

Further action will not normally be warranted.

7. Is the complaint anonymous?

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.