

## Rother District Council

**Report to:** Audit and Standards Committee

**Date:** 21 June 2021

**Title:** Code of Conduct Complaints Monitoring and Other Standards Matters

**Report of:** Lisa Cooper, Monitoring Officer

**Purpose of Report:** To receive an update on the number of complaints received and processed and other standards related matters since the last report in December 2020.

**Officer**

**Recommendation(s):** It be **RESOLVED**: That:

- 1) the report be noted; and
  - 2) the Committee formally records its thanks to Mrs Susan Fellows and Mrs Jan Gray, on behalf of the Council for their services to the Council as Independent Persons.
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### Introduction

1. This routine report sets out brief details of the complaints received since the Committee's last meeting held in December where complaints were considered; as agreed by the Committee, this report presents 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 three new Code of Conduct (CoC) complaints made against three District Councillors by one complainant, who was also an election candidate. In accordance with the agreed process, as none of the complaints have resulted in an investigation and a finding of fault, these are presented anonymously. The view of one of the Council's Independent Persons (IP) was sought and concurred with my proposed action in each case; details of each case are provided at Appendix 1. The outcome of the complaint against a District Councillor that was referred for investigation last year has concluded since the last meeting and this is also included at Appendix 1.
3. With regard to the three complaints, the pre-election period did result in a number of contacts with the Council with regard to the use of social media. Section 27(2) of the Localism Act states that the CoC only applies when Members are acting in their official capacity. This can present significant grey areas in the context of social media, where the line between acting in an official or in a private capacity can be a difficult one to draw. Often Councillors will state that they were posting in a private capacity, whereas complainants will state the opposite. Advice was sent to all Members, during the pre-election period

regarding their use of social media with links to various guidance and information.

4. During this time, I have also received two non-valid complaints against three Parish Councillors. The first was made against the Chairman of a Parish Council for submitting the views of the Parish Council against the complainants' planning appeal; this was an action of the Parish Council as a whole and not the individual Councillor. The second was against two Parish Councillors with responsibility for the progression of the Neighbourhood Plan from a resident who was unhappy at consultation comments published by the Parish Council concerning the complainants' business. Again, this complaint related to the actions of the Parish Council as a whole and were not attributable to the behaviour of the individual Parish Councillors.

## **Other Standards Matters**

### Independent Persons

5. This meeting will be the last meeting for two of the Council's retiring IPs whose Terms of Office expire on 10 July 2021. Mrs Susan Fellows and Mrs Jan Gray have been IPs for the Council since 2013, the maximum period allowed under the terms of the Localism Act. As Members will recall, following a recruitment exercise earlier in the year, at its meeting held on 4 May, full Council agreed the appointment of a new IP (Mr Robert Brown) to take up position from 10 July 2021.
6. Members are invited to thank Mrs Susan Fellows and Mrs Jan Gray, on behalf of the Council for their services to the Council and for providing invaluable support to the Monitoring Officer in the assessment of complaints made against elected Members of this authority and the Parishes and Towns across the District since 2013.

### Training

7. There have been no formal standards related training undertaken since the last meeting due to time constraints and other priority work. It is hoped that a session will be put together for Members in the coming civic year using case examples from neighbouring authorities where possible.

### New Parish Council

8. As Members will be aware, a new Parish Council has been created for Bexhill-on-Sea, to be known as Bexhill Town Council. Rother District Council (RDC), as the principle authority, becomes responsible for dealing with any CoC complaints against the new Town Councillors in respect of their CoC. The Registers of Interest of the new 18 Town Councillors must also be published on RDC's website and I can confirm that this has now been complied with.

### The Nolan Principles / Code of Conduct

9. Members may recall the discussion at the Annual Council Meeting when it was agreed to adopt a new CoC that brought us more into line with East Sussex County Council's Code and that currently adopted across the other East Sussex

authorities. At that meeting, a Member raised the use of the word “should” rather than “must” within the Seven Principles of Public Life (the “Principles”).

10. The Principles (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected (councillors) or appointed (officers) to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.
11. The Principles have been appended to the Council’s CoC, as under the Localism Act, whilst Councils are free to adopt their own Code (as opposed to a nationally set Code as in the past) the Code must be compatible with the seven Principles. So whilst we are not able to change the words “should” to “must” within the Appendix to the Code (the Principles), as these are the Principles as written, we can ensure that the Council’s Code is worded in such a way. The General Obligations set out at Paragraph 3 to 7 of our Code do use the term “must” and these broadly reflect the Principles.
12. Should the Council look to adopt a new Code in the future, following the long awaited Government response to the Committee on Standards in Public Life’s recommendations made in January 2019, the Council can decide the terminology used in the Code and the expectations that this places on Members.

## Risk Management

13. 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 poor Member conduct, an increase in complaints administration and reputational damage for the Council.

## Conclusion

14. The Committee is asked to consider the report, note the complaints, formally record its thanks on behalf of the Council to the retiring Independent Persons and agree any other resolutions / recommendations it may wish to make.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Risk Management	No	Exempt from publication	No

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Appendices:	Appendix 1 – Member Complaints Summary

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Relevant Previous Minutes:        None.

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Background Papers:        None.

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Reference Documents:        None.

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**MEMBER CODE OF CONDUCT COMPLAINTS SUMMARY SHEET**

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
C20-02	15 June 2020	RDC officer	District Councillor	<p><b>Complaint:</b> A sustained allegation of bullying over a 9-12 month period.</p> <p><b>Decision:</b> Referred for external investigation.</p> <p><b>Outcome:</b> The allegation of bullying was not proven; a number of recommendations were made and progressed by the Chief Executive in consultation with both parties.</p>
C21-01	14 May 2021	Member of the public	District Councillor (1) and (2)	<p><b>Complaint:</b> It was alleged that the district councillors made inappropriate and politically sensitive posts on social media during the pre-election period regarding the elections to the new Bexhill-on-Sea Parish Council and that this had an adverse influence on the outcome of the election.</p> <p><b>Decision:</b> No further action (dismissed).</p> <p><b>Comment:</b> Comments were made in a private capacity using their own private resources and social media accounts; being an elected Member does not preclude existing Members from voicing opinions and beliefs during the election period, as part of the political debate, provided that this is done so in a personal capacity and using their own resources. They are entitled to enter into debate and participate in the election process, through electioneering, like any other member of the public – provided that they do so in their own personal capacity.</p>

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
				<p>There was no evidence that they made their comments using their status as Councillor or giving that impression. The Code of Conduct does not therefore apply, and the complaints were dismissed.</p>
C21-01	14 May 2021	Member of the public	District Councillor (3)	<p><b>Complaint:</b> It was alleged that as sole administrator for a social media group, using a councillor email address, not all candidates were promoted equally in the pre-election period and that this gave an unfair advantage to those candidates that were promoted.</p> <p><b>Decision:</b> No further action (dismissed).</p> <p><b>Comment:</b> The District Councillor did not post or monitor the social media group and had no knowledge that their councillor email address was shown as a contact point. It has since been removed. The social media group in question has no connection to Rother District Council and they are free to promote candidates as they see fit during the election period, like any other political group.</p>