

## Rother District Council

**Report to:** Audit and Standards Committee

**Date:** 6 December 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 June 2021.

### Officer

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

- 1) the Committee formally welcomes Mr Robert (Bob) Brown and Councillor Keith Robertson as the newly appointed Independent Person and Parish and Town Council representative on the Audit and Standards Committee;
- 2) the Monitoring Officer be authorised to amend the Council's Arrangements for Dealing with Member Complaints to include provision for a referral to formal investigation, where appropriate, in cases where Subject Members reject a local resolution proposal; and
- 3) the report be noted.

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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 June 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 arising since the Committee's last meeting.

## Membership

### Independent Person

2. This meeting will be the first meeting for Robert (Bob) Brown who commenced his four-year Term of Office on 10 July 2021. As part of the induction programme I met with our two IPs in July this year and undertook a case review of all the cases that had been considered since May 2019. This was a useful exercise and gave our new IP a flavour of the issues that had been considered since May 2019.

### Parish & Town Council Representative

3. Following the resignation of Councillor David Smedley in May this year, at the Rother Association of Local Council meeting held on 15 July 2021, Parish Councillor Keith Robertson was appointed to the current vacancy created by the resignation.

4. As Members are aware, Rother District Council is the principle authority for the 32 Parish and Town Councils (+ 1 Parish Meeting) across Rother and as such, is responsible for elements of the Standards regime, including the “arrangements” that are put in place for the determination of complaints and the registration of parish councillors’ interests.
5. As a reminder, the role of the Parish and Town Council representatives appointed to the Audit and Standards Committee is to make sure that the Parish and Town Councils are represented throughout discussions and to give a Parish and Town perspective that may not otherwise be known by the other Members serving on the Committee. The two Parish and Town Council representatives, namely Mrs Wendy Miers (Dallington Parish Council) and Keith Robertson (Catsfield Parish Council) are able to attend the June and December meetings as a Member of the Committee for the Part A items. At these meetings they can speak on all matters but have no vote.

### **Complaints Received**

6. Since the last meeting there have been six new Code of Conduct (CoC) complaints made against one District Councillor and five parish or town councillors – all made by fellow councillors. 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 (or both) of the Council’s Independent Persons (IP) was sought and concurred with my proposed action in each case; brief details of each case are provided at Appendix 1.
7. With regard to cases C21/06 and C21/07, Members will see that the recommended outcome for these complaints involved a local resolution in the form of an apology to the Parish Council. In this case, the Subject Member does not believe that they have done anything wrong and that the disclosure of confidential information was made in the public interest and has refused to apologise. The Council’s current arrangements for dealing with Member complaints is silent on this situation and Members may wish to consider what action, if any, the Council takes following a refusal by a Subject Member to cooperate in cases such as these.
8. The Local Government Association published guidance in September this year on complaint handling which states the following:

#### ***What are the next steps if the informal resolution does not work?***

*“.....where a subject member has categorically refused to comply with the proposed resolution, has failed to cooperate or has taken action you consider inadequate then you should consider whether a formal investigation is needed.....”. In deciding on next steps, you should always bear in mind the public interest and your agreed criteria for considering whether a matter needs further investigation.”*

9. I have spoken to a neighbouring authority peer and in cases such as these they take no further action, although a letter of disapproval is sent from the Chairman of the Standards Committee.

10. Referring the matter for a formal investigation (if considered serious enough) would result in costs to this authority that are not recoverable. In this particular case, Northiam Parish Council is in a transitional phase and it can take action locally to address some of the issues that have come out of these complaints. I do not believe it would be in the public interest (financially) to pursue an investigation into these particular complaints. As Members are aware, sanctions against Subject Members who are found to be in breach of the Code of Conduct following a Hearing Panel are limited and in the case of Parish Councils, it is up to the Parish Council whether they act on any recommendation.
11. In addition to considering whether an investigation takes place in these cases, the name of the Subject Member who has refused to cooperate could be made public in these reports.
12. If Members are minded to support the prospect of referring a complaint for investigation in these circumstances, in consultation with the Independent Persons, it is recommended that the Monitoring Officer be granted delegated authority to amend the "Arrangements" document to incorporate this provision.
13. During this time, I have also received one non-valid complaint against a District Councillor for alleged poor performance as a Councillor. Alleged poor performance (not being able to resolve a constituent's issue to their satisfaction) is not a matter that can be considered as a Code of Conduct complaint.

## **Other Standards Matters**

### Training

14. There has been no formal Member standards-related training undertaken since the last meeting due to time constraints and other priority work. With the appointment and commencement of the new Deputy Chief Executive and Monitoring Officer in January 2022, Lorna Ford, it is hoped that there will be increased capacity in the future in this regard.
15. Bob Brown and I attended the Monitoring Officer Conference in October this year, held remotely, which provided a useful snapshot of the issues across the country.
16. Topics included an update on legal issues including capacity – when does the code actually apply to elected Members; disrespect versus freedom of speech; process and fairness; a presentation from the Centre for Governance and Scrutiny on cultural and governance of local authorities and how these set the tone of an organisation; the perspective of the City Council Monitoring Officer and an optional session for local authorities with parish councils from Jackie Weaver of the Cheshire Association of Local Councils. As reported previously, whilst the benefits of networking and meeting people face to face are lost at remote conferences, attendance was beneficial.
17. It is clear nationally and in our own experience that a significant proportion of complaints originate from the parish and town councils. Improving support to and offering training to our parish clerks and town and parish chairmen may address some of the issues that end up as complaints. Whilst parish and town councils are responsible for their own training and tend to look to the regional

associations for support, more could be done to support our parish clerks and raise the profile of the standards regime across the district.

18. It was also highlighted that the final new LGA Model Councillor Code of Conduct was published in May and guidance issued in July this year. Whilst this Council has agreed to retain our existing code until such times as the Government responds to the Committee on Standards in Public Life's 2019 report and to keep continuity across the other East Sussex authorities, the guidance is a useful reference document for the shared common behaviours expected within our own code. A copy of the guidance can be found at the following link and I will promote to all Members and parish clerks:

<https://local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

## Risk Management

19. 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

20. The Committee is asked to consider the report and agree any additional recommendations as appropriate.

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
Relevant Previous Minutes:	None.
Background Papers:	None.
Reference Documents:	None.

**MEMBER CODE OF CONDUCT COMPLAINTS SUMMARY SHEET**

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
C21-02	23/07/21	RDC Member	RDC Member	<p><b>Complaint:</b> An allegation of failing to treat the complainant (and senior RDC officers) with respect at a public meeting, harassment and bringing the office or authority into disrepute by spreading untruthful and defamatory accusations.</p> <p><b>Decision:</b> Referred for external investigation.</p> <p><b>Outcome / comment:</b> The allegation of failing to treat the complainant and senior RDC officers with respect and harassment was unfounded. The allegations of bringing the office or authority into disrepute and honesty were inconclusive in the absence of any evidence to support the allegations either way. An offer of external mediation was made to both parties.</p>
C21-03	27/09/21	Bexhill Town Councillor	Bexhill Town Councillor	<p><b>Complaint:</b> An allegation of sharing confidential internal communications to external third parties.</p> <p><b>Decision:</b> Local Resolution.</p> <p><b>Outcome / Comment:</b> The Subject Member apologised to the complainant for sharing the internal communications against the policies and procedures of the Town Council. The Town Council was requested to ensure that adequate information management training was budgeted for and undertaken by all Town Councillors as soon as possible.</p>
C21-04	27/09/21	Bexhill Town Councillor (same complainant as C21-03 above)	Bexhill Town Councillor	<p><b>Complaint:</b> An allegation of sharing confidential internal communications to external third parties.</p> <p><b>Decision:</b> Local Resolution.</p> <p><b>Outcome / Comment:</b> The Subject Member apologised to the complainant for sharing the internal communications against the policies and procedures</p>

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				<p>of the Town Council. The Town Council was requested to ensure that adequate information management training was budgeted for and undertaken by all Town Councillors as soon as possible.</p> <p>In both cases (C21-03 and C21-04) the Subject Members shared the confidential internal communications in good faith with a view to obtaining information to queries that had been raised by the complainant; there was no political motive or hidden agenda for the sharing of the information.</p>
C21-05	27/09/21	Bexhill Town Councillor	Rother District Councillor	<p><b>Complaint:</b> An allegation of failing to treat with respect via a private social media post.</p> <p><b>Decision:</b> Dismissed (no further action).</p> <p><b>Outcome / Comment:</b> There was little substance to the complaint and the comments made were not considered to be rude or offensive.</p>
C21-06	28/10/21	Northiam Parish Councillor	Northiam Parish Councillor	<p><b>Complaint:</b> An allegation of disclosing confidential information to a third party, conducting themselves in a manner which could reasonably be regarded as bringing the authority into disrepute and attempting to use position to confer on or for another person an advantage. The disclosure to the third party resulted in social media criticism of the Parish Council and Parish Council Members.</p> <p><b>Decision:</b> Local Resolution.</p> <p><b>Outcome / Comment:</b> The Subject Member was requested but refused to apologise to the Parish Council for the disclosure and the resulting consequences. The Parish Council was advised to consider the make-up and terms of reference of a related committee.</p>
C21-07	27/10/21	Northiam Parish Councillor	Northiam Parish Councillor	<p><b>Complaint:</b> As for C21-06 together with an additional allegation of bullying and failing to treat complainant with respect.</p>

REF	DATE RECEIVED	COMPLAINANT	SUBJECT MEMBER	NATURE OF COMPLAINT, DECISION AND COMMENT
				<p><b>Decision:</b> Part Local Resolution / part dismissed (no further action).</p> <p><b>Outcome / Comment:</b> As above in respect of the same allegation and dismissed in terms of the allegation of bullying and failing to treat with respect. It was considered that whilst the conduct was robust and borderline disrespectful it was not considered enough to substantiate an allegation of bullying or lack of respect in a local authority meeting context. The Subject Member was advised to reflect on how their behaviour could be misconstrued by others.</p>