

## Rother District Council

**Report to:** Audit and Standards Committee

**Date:** 5 December 2022

**Title:** Review of the Arrangements for Dealing with Member Complaints, Investigations Procedure and Hearings Procedure

**Report of:** Lorna Ford, Monitoring Officer

**Purpose of Report:** To consider several minor amendments to the Council's Arrangements for Dealing with Member Complaints.

### Officer

**Recommendation(s):** **Recommendation to COUNCIL:** That:

- 1) Subject to the approval of 2) below, the amendments to Part 2, Article 9, – Ethical Standards function of the Audit and Standards Committee paragraph 9.1 (c) iii) be approved and adopted; AND

It be **RESOLVED:** That:

- 2) the proposed amendments to the Arrangements for Dealing with Member Complaints, Investigations and Hearing Procedures be approved.

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## Introduction

1. This report sets out several proposed amendments to the Council's Arrangement for Dealing with Member Complaints, and consequential amendments to the Investigations and Hearings Procedures. The main proposed amendments are in order to clarify the role of the Independent Persons (IPs) in complaint handling in light of recent experience and advice obtained. The Council's current IPs are Bob Brown and Rose Durban and they are non-voting Members of this Committee (when dealing with standards related matters).
2. This review has also provided an opportunity to make several other amendments to improve the documents, as shown. Should the proposed amendments be supported, there will also be a minor amendment required to Part 2 of the Constitution, as detailed in the report. The proposed amendments are shown in **RED** on the attached appendices and reflect the points discussed in the following paragraphs.
3. The Audit and Standards Committee is able to agree the amendments to the Arrangements for Dealing with Member Complaints and Investigations and Hearings Procedures under its delegated powers from full Council. However, the amendment to the Constitution, will require full Council approval.

## Rational for Proposed Amendments

4. Following feedback from the IPs who attended an IP conference in June this year, it is considered that the role of the IPs requires further clarity within the Council's procedural documents. Advice received from leading consultants in

the field of ethics and standards and knowledge gained at recent training events, has also shown that the Council's procedural documents require clarification in this regard. It needs to be clear that a discussion with an IP will only be offered to a Subject Member (SM) (the Councillor against whom a complaint has been made) if a complaint made against them has been referred for an investigation and not at the initial assessment stage. Indeed, the initial assessment stage could result in the complaint being dismissed, in which case there would be no need for a SM to speak to an IP.

5. It also needs to be made clear that IPs are not there to provide legal advice or to represent the SMs who can sometimes get the impression that the IPs "are on their side"; SMs need to obtain their own legal advice, as appropriate. It is further recommended that only one IP is used throughout each case, for example, the same IP used at assessment stage, and then if the matter is referred for investigation, the SM would be offered the opportunity to speak to the same IP, if requested. This will ensure that IPs are not "played off" against one another and provides a consistent approach for the management of each individual case. Should a complaint that has been investigated proceed to a Hearing Panel, again, the same IP would be invited to attend that Hearing Panel.
6. It is also considered good practice to offer the IP as a "broker" between the two parties to a complaint, if there is dissatisfaction on either side with a proposed local resolution option.

### **Consequential Amendments to the Constitution**

7. Should the amendments proposed on the attached appendices be supported, Part 2, Article 9, – Ethical Standards function of the Audit and Standards Committee paragraph 9.1 (c) iii) will require amendment to reflect the same.

### **Risk Management**

8. The Audit and Standards Committee has a duty under the Localism Act to put in place arrangements to investigate and make decisions on written allegations that a Member or Co-opted Member of the Council has failed to comply with the Code of Conduct. To regularly review and update these arrangements in light of experience and knowledge ensures a culture of continuous improvement.
9. Failure to make the role of the IP clear to all parties to a complaint and to offer a SM the opportunity to discuss their case, if and when a complaint is referred for an investigation, could result in criticism and legal challenge in terms of fairness of complaint handling.

### **Conclusion**

10. The Committee is asked to consider the proposed amendments within the report and approve the recommendations as shown in the report.

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

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Appendices:	Appendix A – Arrangements for Dealing with Member Complaints Appendix 2 – Investigations Procedure Appendix 3 – Hearings Procedure
Relevant Previous Minutes:	None.
Background Papers:	None.
Reference Documents:	None.

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