

REPORT REFERENCE NO.	SC/19/2
MEETING	STANDARDS COMMITTEE
DATE OF MEETING	8 APRIL 2019
SUBJECT OF REPORT	HEARING PROCESS – RIGHT OF REPRESENTATION
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p>(a). <i>That, in the event that the Committee approves that matters that have been subject to investigation should be determined by hearings, then the pre-hearing and hearing procedure and published guidance on making and dealing with complaints be amended to indicate that, in attending such hearings, there is no right of representation for the Subject Member;</i></p> <p>(b). <i>that the Clerk be authorised to make the amendments referred to at (a) above.</i></p>
EXECUTIVE SUMMARY	<p>Elsewhere on the agenda, report SC/19/1 outlines proposed changes to both the Authority's Code of Members' Conduct and the guidance and procedures associated with handling complaints made under the Code.</p> <p>Although not featuring as part of the Guidance and Procedures, this Authority has used, for conducting both a pre-hearing and subsequently the hearing where a matter has been subject to investigation, processes based on those used by the former Standards Board for England. Specifically, these processes provide – at the pre-hearing stage – for the hearing panel to identify whether the Subject Member is to be legally represented i.e. intimating that the Subject Member has a right of legal representation.</p> <p>While this was undoubtedly proportionate for the previous (i.e. pre-2011) Standards regime, where more serious sanctions including suspensions were available, experience in this Authority indicates that affording a right of legal representation increases the risks of hearings becoming overly adversarial and is disproportionate given that only limited sanctions can be applied in the event that a breach of the Code of Conduct is found.</p> <p>Report SC/19/1 invites the Committee to consider and determine whether it would wish matters that have been subject to formal investigation to be determined either by the full Committee (with no right of attendance by either the complainant or the Subject Member) or by a Hearing Panel. If the Committee is minded to approve the latter, then it is proposed that there should be no right of representation for the Subject Member and that both the pre-hearing and hearing process and the published guidance on making and dealing with complaints should be amended to reflect this.</p>
RESOURCE IMPLICATIONS	None.

EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and human rights legislation.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Report SC/19/1 (Review of Code of Conduct and Complaints Guidance)