



Notice of Meeting:

# Standards Committee

**Meeting Location:**

The Atrium - Perceval House

**Date and Time:**

Tuesday, 26 March 2024 at 7.00 pm

**Contact for Enquiries:**

**Email:** [democraticservices@ealing.gov.uk](mailto:democraticservices@ealing.gov.uk)

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**Chief Executive:**

Tony Clements

**This meeting will be held in public. If you would like attend in person and have any special requirements in order to attend, please email [democraticservices@ealing.gov.uk](mailto:democraticservices@ealing.gov.uk) or telephone on 020 8825 6302 at least three clear working days in advance wherever possible.**

## **Committee Membership: Councillors**

P Driscoll (Chair), J Blacker, K Sahota, G Busuttil, J Gallant, P Knewstub, G Shaw, Y Gordon and C Sharma

## **Independent standards people:**

O Sall and K Quayle.

# AGENDA

**1 Apologies for absence and substitutions**

**2 Urgent matters**

**3 Matters to be considered in private**

Item 5b contains information that is exempt from disclosure by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Should discussion of the item be necessary and on agreement of the Committee, under Section 100(A) of the Local Government Act 1972, the public and press would be excluded from the meeting on the grounds that they involve the likely disclosure of exempt information.

**4 Declarations of interest**

**5 Minutes of the previous meeting (Pages 3 - 10)**

To agree as a true and correct record:

- a) The minutes of the meeting of Thursday, 9 March 2023
- b) The private minutes of the meeting on 9 June 2022, which were unavailable at the time of the last meeting.

**6 Overview of the Council's freedom of information performance (Pages 11 - 18)**

**7 Annual review of whistleblowing policy operation (Pages 19 - 24)**

**8 Annual review of standards complaints (Pages 25 - 40)**

**Published:** Monday, 18 March 2024

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## **Minutes of the meeting of the Standards Committee**

**Date:** Thursday, 9 March 2023

**Venue:** The Liz Cantell Room, Ealing Town Hall, New Broadway,  
Ealing, W5 2BY

### **Attendees (in person): Councillors**

P Driscoll (Chair), J Blacker, G Busuttil, H Kaur Dheer, G Shaw and A Young

### **Independent Standards People:**

O Sall and K Quayle

### **Apologies:**

K Sahota, J Gallant

### **Attendees (virtual): Councillors**

K K Nagpal

#### **1 Apologies for absence**

Apologies had been received from Councillors Sahota and Gallant. Councillor Young was substituting for Councillor Gallant.

#### **2 Urgent Matters**

There were none.

#### **3 Matters to be considered in private**

There were none.

#### **4 Declarations of interest**

There were none.

#### **5 Minutes of the previous meeting**

The Chair explained that the full notes of the last meeting were missing and this meant that the minutes of the private meeting were unavailable. The Committee were asked to consider the public minutes of the meeting.

### **RESOLVED:**

That the public minutes of the meeting on Thursday, 9 June 2022 were agreed as a true and correct record.

## **6 Dispensations**

There were none.

## **7 Overview of the council's Freedom of Information performance**

Lorraine Cox, Corporate Information Governance Manager, introduced the report and noted that the Corporate Information Governance Team had performed well in relation to Freedom of Information (FOI) requests in 2022 after a difficult period over 2020 and 2021. Ms Cox noted that the compliance rate for 2022 was just under 80%, with a compliance rate in January 2023 of 87%.

The Committee were invited to ask questions of Ms Cox in relation to her report. In response, Ms Cox made the following clarifications:

- Low compliance rates in 2020 were largely the result of the impact of the pandemic on Council services. Resources had been diverted from the FOI team to front line services.
- Ms Cox considered that FOI requests were becoming more detailed. The Council were obliged to answer a request unless a response was likely to take more than 18 hours of officers' time.
- Each FOI request was triaged before a response was given. Officers had the option to reject a request if it was deemed inappropriate.
- Ms Cox agreed to investigate recording statistics on rejected FOI requests so that they could be shared with the Committee at a future meeting.
- In 2022, no complaints to the Information Commissioner's Office (ICO) were upheld.

### **RESOLVED:**

That the Standards Committee noted the contents of the Freedom of Information Performance report.

## **8 Annual review of the Whistleblowing Policy operation**

Helen Harris, Director of Legal and Democratic Services, introduced the report and noted that there had been no whistleblowing cases in the period 1 March 2022 to 27 February 2023. Whilst it was hoped that this fact was the result of potential whistle blowers reporting issues through established Council channels, Ms Harris noted that it was possible potential whistleblowers were not aware of the Council's whistleblowing procedures. It was suggested that the Committee consider authorising officers to investigate options to publicise the Council's whistleblowing scheme to potential whistle blowers.

The Committee were invited to comment on the report.

## **RESOLVED:**

That the Standards Committee:

1. Noted the details of the whistleblowing cases set out in paragraph 3; and
2. Authorised the Director of Legal and Democratic Services, following consultation with the Assistant Director of Audit and Investigation, to investigate options to publicise the Council's whistle blowing scheme to potential whistle blowers.

## **9 Annual review of the operation of the council's standards regime**

Ms Harris introduced the report and explained that there had been complaints against members which had been raised through the standards regime in period since the last annual meeting of the Standards Committee. Ms Harris noted some broad trends in the number of complaints per year since 2013/14. These included:

- Some members of the public raised complaints about policy through the standards process. The standards process was not the appropriate place to consider complaints about policy and these complaints were not referred to the Standards Committee.
- Some complaints related to delays in councillors replying to residents' emails. On further investigation, it was sometimes found that the delays in response were outside of councillors' control.
- Some complaints related to the private life or employment of councillors outside of their Council role. The standards regime was clear that the standards regime only applied in cases where the individual was acting in their capacity as a Councillor.

Ms Harris also noted the work of the Committee's independent people, Ms Oumou Sall and Ms Karen Quayle. Ms Harris thanked them both for their assistance on standards matters.

The Committee were invited to ask questions and comment on the report. The following points were noted:

- Complainants were informed if independent people were consulted on their case.
- In addition to the standards regime, political parties also had standards and complaints procedures.
- Resourcing for standards investigations was an issue which sometimes led to delays in the process.

It was noted that there was a typo in paragraph 4.4 of the report. "Law Traffic Neighbourhoods" was corrected to "Low Traffic Neighbourhoods".

## **RESOLVED:**

That the Standards Committee:

1. Considered the report and agreed that it be presented to full council on 25 April 2023;
2. Noted the work and achievements of the committee and its independent people during the past year.
3. Thanked Ms Oumou Sall and Ms Karen Quayle for their hard work as independent standards people.

#### **10 Date of the next meeting**

The date of the next meeting was 18 April 2023, if required.

Before the meeting drew to a close, the matter of the minutes of the last minutes was revisited. It was noted that the meeting was only recorded as having lasted for 10 minutes. It was suggested that the public meeting went on for 10 minutes, whilst the private meeting went on for longer. No further action was taken by the Committee.

Meeting commenced: 7.01 pm

Meeting finished: 7.40 pm

Signed:

Dated:

P Driscoll (Chair)





**CReport for:  
INFORMATION**

**Item Number:**

<b>Contains Confidential or Exempt Information</b>	<b>NO</b>
<b>Title</b>	Overview of the Council's Freedom of Information performance
<b>Responsible Officer(s)</b>	Director of ICT, IDM and Property Services
<b>Author(s)</b>	Lorraine Cox, Head of Information Governance
<b>Portfolio(s)</b>	Cllr Peter Mason, Leader of the Council
<b>For Consideration By</b>	Standards Committee
<b>Date to be Considered</b>	26th March 2024
<b>Implementation Date if Not Called In</b>	Not applicable
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Freedom of Information

**Purpose of Report:**

To present an overview of the Freedom of Information (FOI) enquiries received by the council in 2023, performance in the organisation responding to them, and any issues that have arisen.

**1. Recommendations for NOTING**

1.1 To note and consider the contents of the report.

**2. Volume of Enquiries and Speed of Response**

2.1 The FOI team currently consists of two centrally based officers who sit within the ICT and Data Management service area within the Resources strategic directorate of the council. These two officers receive, log, send requests to officers within services areas, receive initial draft responses back, ensure the response is accurate and any applicable exemptions have been applied and then seek approval from the relevant director before sending the final response.

2.2 The statutory timescales for processing and completing a Freedom of Information (FOI)/Environmental Information Regulations (EIR) request is 20 working days.

2.2.1 The process followed for completing requests is:

**Day 0**

Entering request onto internal spreadsheet and sending request to relevant service area(s).

**Day 1-5**

Request dealt with service, which provides response to request.

**Day 5-10**

Reminder of request response outstanding sent.

**Day 10**

Reminder of response deadline sent (further chases sent if deadline not met).

**Day 11-15**

Review of response and dealing with any issues such as further information needed, by sending draft back to service to complete.

If no further information needed, draft sent for approval.

**Day 15-19**

Await approval for response. Dealing with any further changes/information needed and obtain further approval if required.

**Day 20**

Complete request by sending approved response.

2.2.2 The process timeline can differ from time to time for the following events:

**Clarification**

We can ask the requester for further information to help answer with the correct information. This puts the request on hold until the requester replies with clarification.

**Extension (EIR)**

An extension of a further 20 working days can be asked for if the request is viewed to be large/complex. This extension needs to be submitted before the original 20 working days.

2.2.3 Requests in full or part can become subject to rejection under:

**23 FOI Exemptions**

There are two types of exemptions – Absolute and Non-Absolute:

- Absolute exemptions do not require consideration of the Public Interest test
- Non-Absolute exemption require consideration of the Public Interest test where we must decide whether it is in the public interest to disclose the information requested or to withhold it.

**14 EIR Exceptions**

All exceptions are Non-Absolute and are subject to the Public Interest test.

2.3 Comparisons of performance since 2019 is as follows:

<b>FREEDOM OF INFORMATION ACT 2000 ENVIRONMENTAL INFORMATION REGULATIONS 2004</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Total number of FOI/EIR requests	2,016	1,667	1,674	1,578	1,712
Number completed within statutory timescales	1,861	962	1,087	1,252	1,527
% completed within statutory timescales	92.3%	57.7%	64.9%	79.3%	89.0%

2.4 The service is within the ICT department and works alongside the Data Protection team.

2.5 The number of enquiries received by the Council has increased most years since 2019.

<b>Year</b>	<b>Number</b>	<b>Growth per year</b>
2019	2,016	-4.8%
2020	1,667	-17.3%
2021	1,674	+0.4%
2022	1,578	-5.7 %
2023	1,712	+8.5%

2.6 We received an increase in the number of requests in 2023 to that of 2022. This level of requests continues to place a significant burden on service areas in addition to their daily duties to provide a response. Requests are becoming more detailed and require significant staff time to provide a response. There is an exemption if the request falls under the Freedom of Information legislation and would take over 18 hours per request to complete however 18 hours is still a significant amount of officer time. The same exemption does not apply to requests made under the Environmental Information Regulations and the expectation is that information should be disclosed unless manifestly unreasonable.

2.7 97 requests were received that were not considered a valid request and accordingly were not processed under the relevant legislation. These include requests for clarification or explanations or requests that were dealt with a business-as-usual request within the service area.

2.8 The breakdown of requests received per directorate for 2023 is as follows.

January 2023 – December 2023

<b>Directorate</b>	<b>Requests received</b>	<b>% responded to within statutory timescales</b>	<b>% responded to outside of statutory timescales</b>
SD Adults & Public Health	67	91%	9%
SD Children	206	86%	14%
SD Economy & Sustainability	312	87%	13%
SD Housing & Environment	589	90%	10%
SD Resources	342	92%	8%
SD Strategy & Change	58	93%	7%
Mixed	138	81%	19%
<b>Total</b>	<b>1,712</b>	<b>89%</b>	<b>11%</b>

### **Remedial measures**

2.9 Given the requirement to continually improve the number of requests responded to within the statutory timescales, measures have been put in place, including:

- Regular details of overdue requests are provided to directors so they take the lead within their directorate to ensure a response is provided.
- Performance is now included and reported to SLT quarterly.
- The portfolio holder is appraised of the Freedom of Information statistics and issues at a quarterly update.
- Weekly emails to directors are sent advising of requests due the following week for their directorate to ensure they can escalate within the timescales to elicit a response.

### **3. Other Performance Information**

#### **Internal Reviews**

3.1 The number of referrals of requests to be reviewed under Internal Review received since 2019 is as follows:

<b>Year</b>	<b>Number</b>
2019	61
2020	36
2021	39
2022	43
2023	48

The number of Internal Reviews by Directorate are:

<b>Directorate</b>	<b>No of IR requests</b>
Adults & Public Health	0
Children	8
Economy & Sustainability	11
Housing & Environment	15
Resources	7
Strategy & Engagement	1
Mixed	6
<b>Total</b>	<b>48</b>

- 3.2 Internal Reviews are submitted if the requester is unhappy with any response they have received. An Internal Review can be submitted within:
- Two calendar months (FOI)
  - 40 working days (EIR)

The statutory timeframes to process and complete any requests for an Internal Review are as follows:

- 20 working days (FOI)
- 40 working days (EIR)

- 3.3 If a requester is still unhappy with the response, they receive they can contact the Information Commissioners Office (ICO) to lodge a complaint. The ICO will investigate and try to work with the FOI team and the requester to help resolve any complaint regarding a response. If any action taken by the ICO following a complaint is not followed or met, they have the power to instruct the organisation to disclose the information and/or put the organisation on a monitoring list.

### **ICO Complaints**

- 3.4 We received 6 complaints from the ICO in 2023. The breakdown of directorates is as follows:

<b>Directorate</b>	<b>No of ICO requests</b>
Adults & Public Health	0
Children	0
Economy & Sustainability	2
Housing & Environment	4
Resources	0
Strategy & Engagement	0
Mixed	0
<b>Total</b>	<b>6</b>

This is a considerable reduction in complaints, they related to Planning, Parking & Housing.

#### **4. Financial**

The FOI team operates within existing staff budgets for the ICT and Property Services Directorate. Responses to Fols within services are managed within existing service budgets.

#### **5. Legal**

This is a statutory function. The Freedom of Information Act 2000 and the Environmental Regulations Act 2004 applies to information requests.

The Freedom of Information Act 2000 (FOI Act) and the Environmental Regulations Act 2004 gives the public the right to request any recorded information held by a public authority. The purpose is to promote greater openness and accountability.

#### **6. Value For Money**

This is a statutory function and the council is required to dedicate resources to meeting the legislative requirements.

#### **7. Sustainability Impact Appraisal**

Not applicable.

#### **8. Risks**

8.1 The increasing number and complexity of requests provides a challenge to the council to maintain performance and quality of responses. For example, if internal deadlines are not met, and the FOI team spend time chasing service areas this detracts from time available to process requests. This can result in the final response being sent closer to final statutory deadlines rather than earlier.

8.2 Similarly if the query is allocated to another service area and the corporate team are not advised and this is not the correct area that may hold the information requested this also results in shorter deadlines for internal response.

#### **9. Community Safety**

9.1 None.

#### **10. Links to the 3 Priorities for the Borough**

10.1 None.

#### **11. Equalities, Human Rights and Community Cohesion**

11.1 Not applicable.

**12. Staffing/Workforce and Accommodation implications:**

12.1 None.

**13. Property and Assets**

13.1 None.

**14. Any other implications**

14.1 None.

**15. Consultation**

15.1 No specific consultation on this report has been undertaken.

**16 Timetable for Implementation**

16.1 Not applicable.

**17. Appendices**

17.1 None.

**18. Background Information**

18.1 None.

**Consultation**

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent to consultee</b>	<b>Date response received</b>	<b>Comments appear in paragraph:</b>
<b>Internal</b>	Edward Axe, Director			
	Helen Harris, Director of Legal and Democratic Services			
	Emily Hill, Strategic Director, Resources			
<b>External</b>	None			

**Report History**

<b>Decision type:</b>	<b>Urgency item?</b>
For information	No.
<b>Report no.:</b>	<b>Report author and contact for queries:</b>
	Lorraine Cox







**Report for:  
INFORMATION**

**Item Number:**

<b>Contains Confidential or Exempt Information</b>	No
<b>Title</b>	Annual review of whistleblowing policy operation
<b>Responsible Officer(s)</b>	Helen Harris, Director of Legal and Democratic Services
<b>Author(s)</b>	Justin Morley and Shahzad Ayub
<b>Portfolio(s)</b>	Not applicable
<b>For Consideration By</b>	Standards Committee
<b>Date to be Considered</b>	26 March 2024
<b>Implementation Date if Not Called In</b>	Not applicable
<b>Affected Wards</b>	All
<b>Area Committees</b>	Not applicable
<b>Keywords/Index</b>	Whistleblowing Concerns

**Purpose of Report:**

To consider disclosures made pursuant to the Council's whistleblowing policy since the last report.

**1. Recommendations**

It is recommended that the committee:

- 1.1 Notes the details of the whistleblowing cases set out in paragraph 3.

**2. Reason for Decision and Options Considered**

- 2.1 The various functions of this committee include receiving reports on the operation of the Council's whistleblowing policy.

**3. Key Implications**

- 3.1 The Council's whistleblowing policy includes information about the nature of whistleblowing, about how concerns should be investigated and about the protection afforded to the whistleblower once concerns have been raised. However, the policy is only as effective as its operation in practice. Members therefore have an important role in scrutinising how the Council responds to concerns that have been raised and in reviewing current policy. The Council's whistleblowing policy was updated by full Council in July 2023 and is compliant with the latest policy and guidance.
- 3.2 A central register of whistleblowing cases is maintained by the Audit and Investigation (A&I) team. The officer with responsibility for this register is the Investigation Manager. Cases are held on the register for as long as relevant and the register is monitored regularly.

- 3.3 'Whistleblowing' cases are entered on the A&I case management system and a record is kept of actions taken. The ongoing progress of cases is monitored by way of periodic management case reviews.
- 3.4 The key contacts for the whistleblowing policy are the Assistant Director of Audit and Investigation and the Director of Legal and Democratic Services. The Council seeks to ensure that allegations of wrongdoing are dealt with consistently across the Council, and these reviews assist with monitoring that objective.
- 3.5 A marker on the A&I case management system allows for 'whistleblowing' cases referred during any particular period to be identified and assist with the production of reports.
- 3.6 For cases managed by the A&I team, procedures are held within the A&I Guidance Manual for the management of whistleblowing cases. These are reviewed periodically.
- 3.7 All allegations, including whistleblowing cases, are risk assessed prior to being accepted for investigation.
- 3.8 Where required reports on whistleblowing cases are drafted and shared with the Director of Legal and Democratic Services.
- 3.9 Adherence to procedures for investigations is the responsibility of the line managers within the A&I team. The Investigation Manager regularly monitors the cases within the A&I team performance against KPI's.
- 3.10 The last report was considered by the Standards Committee on 9 March 2023. That report covered the period from 1 March 2022 to 28 February 2023.
- 3.11 The Council's Whistleblowing policy was promoted on the intranet on 28 March 2023 providing links to the policy itself, advice of how to address concerns and contact details of relevant Council officers.
- 3.12 The Council's Whistleblowing policy was updated in July 2023 with minor amends to the name of an organisation.
- 3.13 At the time of the last report there were no new whistleblowing reports.
- 3.14 From 1 March 2023 to 29 February 2024 there have been three new whistleblowing cases:
  - a) Complaint dated November 2023 was made anonymously and purportedly from a former member of staff. It concerned the behaviour of a manager and the action taken in response to this. This was referred to the service who responded. Nothing to report.
  - b) A report January 2024 from a member of staff in relation to procurements, a staff appointment, bullying/behaviours and compliance with regulations. The service manager is investigating and enquires remain ongoing.
  - c) An anonymous report in January 2024 relating to staff turnover, timeliness of action and cases being closed by the Head of Service without adequate review. This was passed to the service area to review and have responded.

#### **4. Financial**

- 4.1 All work connected with investigations following whistleblowing reports is carried out using existing resources, primarily the Audit and Investigation department. Where the

departments have carried out investigation work themselves, these costs are met by the relevant departments and not by the Audit and Investigation team.

## 5. Legal

- 5.1 The Public Interest Disclosure Act 1998 was introduced to protect individuals making certain disclosures in the public interest and to allow such individuals to claim compensation for any victimisation following such disclosure. This legislation made changes to the Employment Rights Act 1996, giving workers a direct remedy against their employer.
- 5.2 The Public Interest Disclosure Act 1998 (the 'Act') specifies different criteria for a disclosure to be defined as a "protected disclosure" (and thus bring a worker within the protection of the Act) depending on whether the disclosure is made to the employer, to the individual's own legal adviser, to an appropriate regulator, or otherwise externally to a third party. The prescribed regulators, to whom protected disclosures can be made, depending on the subject matter of the disclosure, include:
- i) the Council's auditor, appointed in accordance with Local Audit and Accountability Act 2014
  - ii) the Care Quality Commission
  - iii) the Children's Commissioner
  - iv) HMRC
  - v) General Medical Council
  - vi) Health and Care Professions Council
  - vii) Information Commissioner
  - viii) an MP
  - ix) Pensions Regulator
  - x) Secretary of State for Education
  - xi) Secretary of State for Health
  - xii) the Health and Safety Executive

**The full list is found in the Public Interest Disclosure (Prescribed Persons) Order 2014/2418, which is updated from time to time, most recently in December 2023.**

- 5.3 The Act applies to all workers including agency workers. Where a worker is dismissed or otherwise disadvantaged as a consequence of having made a protected disclosure, he or she may claim compensation through Employment Tribunal proceedings. There is no numerical cap on the amount of compensation that an Employment Tribunal can award to a worker in whistleblowing cases.
- 5.4 The Employment Tribunal claim form allows Claimants (i.e., those claiming compensation) to indicate that they want matters raised in their claim referred to the appropriate regulatory body under the Act.
- 5.5 The Act does not contain legal requirements in respect of what an organisation must do in order to investigate an allegation, or what steps it must take to rectify matters if there is substance to the allegation. Those requirements fall within the Council's general obligations to: (a) act lawfully; (b) manage its financial affairs prudently; and (c) comply with the relevant pieces of legislation (for example health and safety regulations).

## 6. Value For Money

6.1 An effective whistleblowing policy plays a key part in the Council's corporate governance arrangements. When the policy is operating effectively, a culture of openness is created which should help to prevent or expose fraud and other criminal activity. The high costs associated with dealing and responding to those matters should therefore be reduced.

## **7. Risk Management**

7.1 Ensuring that new staff, workers and contractors are made aware of the whistleblowing policy should help to minimise the risk of concerns not being raised. The responsibility for advising new employees and agency workers of the Council's policy rests with the employing service area.

## **8. Community Safety**

8.1 None.

## **9. Links to three Key Priorities for the Borough**

9.1 The Council's administration has three key priorities for the Borough. They are: (a) tackling the climate change crisis; (b) creating good jobs; and (c) tackling inequality. An effective whistleblowing policy assists with the Council's commitment to improvement and becoming a high performing organisation in order to deliver on the aforementioned key priorities.

## **10. Equalities, Human Rights and Community Cohesion**

10.1 There are no implications from this report itself.

## **11. Staffing/Workforce and Accommodation implications:**

11.1 There are no implications from this report itself. Workers have statutory protection when making protected disclosures as detailed in this report. The Council's whistleblowing policy reflects that protection and helps to ensure that workers are aware of it.

## **12. Property and Assets**

12.1 None.

## **13. Consultation**

13.1 As well as the views of the Standards Committee, the Director of Legal and Democratic Services takes into account the view of the Strategic Director Resources, the Director of Workforce and Organisation Development and the Assistant Director of Audit and Investigations.

## **14. Timetable for Implementation**

14.1 Not applicable.

## **15. Sustainability Impact Appraisal**

15.1 It is not envisaged that the matters in this report will have any sustainability impact. Accordingly, no appraisal has been carried out.

## 16. Background Information

### 16.1 [Ealing Council Whistleblowing policy 2023](#)

#### Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
<b>Internal</b>				
Helen Harris	Director of Legal and Democratic Services	13 March 2024	13 March 2024	
Emily Hill	Strategic Director Resources	13 March 2024	13 March 2024	
Mike Pinder	Assistant Director of Audit and Investigation	13 March 2024	13 March 2024	
Kim Brown	Director of Workforce and Organisational Development	13 March 2024	15 March 2024	
Chris Rabe	Reactive Fraud Manager	13 March 2024	13 March 2024	
<b>External</b>				
None				

#### Report History

<b>Decision type:</b> Non key		<b>Urgency item?</b> Not urgent	
Authorised by Cabinet member:	Date report drafted:	Report deadline: 15 March 2024	Date report sent: not applicable as this is not a cabinet report.
Report no.:	Report author and contact for queries: Shahzad Ayub (ext. 5192) Senior Lawyer		

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**Report for:  
ACTION AND INFORMATION**

**Item Number:**

<b>Contains Confidential or Exempt Information</b>	<b>NO</b>
<b>Title</b>	Annual review of standards complaints
<b>Responsible Officer(s)</b>	Helen Harris, Director of Legal and Democratic Services
<b>Author(s)</b>	Helen Harris
<b>Portfolio(s)</b>	Not applicable
<b>For Consideration By</b>	Standards Committee
<b>Date to be Considered</b>	26 March 2024
<b>Implementation Date if Not Called In</b>	Not applicable
<b>Affected Wards</b>	None
<b>Keywords/Index</b>	Standards Committee annual complaints review 2023/24

**Purpose of Report:**

A report giving an overview of formal complaints made about councillors

**1. Recommendations for DECISION**

- 1.1 Considers this report and agrees that it be presented to full council, and
- 1.2 Notes and thanks Ms Oumou Sall and Ms Karen Quayle for their hard work as independent standards people

**2 Reason for Decision and Options Considered**

- 2.1 It is good practice for standards committees to produce an annual report on their activities through the year.
- 2.2 [Chapter 7 of Part 1 of the Localism Act 2011](#) places an obligation on the council to promote and maintain high standards of conduct by councillors and co-optees. Although the 2011 Act did not prescribe a form of Code of Conduct, it did require that the council have a Code of Conduct for its councillors and that the Code must cover the following 7 principles: Selflessness / Integrity / Objectivity / Accountability / Openness / Honesty / Leadership.
- 2.3 The Localism Act removed the requirement for the council to have a standards committee and for any such standards committee to have an independent chair. It did however introduce the mandatory requirement for the council to have at least

one “independent person”, who must be consulted in defined circumstances in relation to standards complaints.

2.4 Ealing’s standards regime is backed up by a [Code of Conduct](#) drawn up following principles set by members. Ealing has a strong culture of compliance, supported by specialist training for all our councillors.

2.5 Following the May 2022 local elections, all Ealing councillors undertook formal training on governance issues, including on the Code of Conduct for Councillors. One of the sessions was delivered by external specialist trainers, and all councillors were offered the opportunity to attend that session if they wished. Specialist governance training for all councillors accords with best practice and ensures that Ealing’s culture of high ethical standards and excellent behaviour by its councillors continues. All councillors continue to participate in the training programme drawn up by officers (following consultation with the party whips).

2.6 Members continue to have access to the full range of e-learn modules via the council’s e-Learning platform. In addition, training continues to be delivered by officers and partner organisations, on a range of specialist subjects including equalities.

2.7 The figures in the table below show the number of Ealing Council standards complaints over the last ten years:

<b>Year</b>	<b>Total number of complaints</b>	<b>Complaints dealt with by Standards Committee</b>
2014/15	0	0
2015/16	5	0
2016/17	3	0
2017/18	8	0
2018/19	2	1
2019/20	9	0
2020/21	21	1
2021/22	14	0
2022/23	6	0
2023/24	10/11	None so far, though two investigation reports may need to be considered shortly.

### **3 Key Implications**

3.1 The Standards Committee now meets once a year, in the absence of complaints requiring committee-level consideration. This arrangement works well and reflects the fact that Ealing councillors, by and large, understand their responsibilities and are complying with them. There is a strong “compliance culture”. Five additional dates were put in the municipal diary at the start of the year for “complaints meetings”, to make it quicker and easier to organise meetings to deal with complaints should these be received and required to be considered at committee



level. It is not yet clear whether a meeting of the Standards Assessment Panel will be needed before the end of this current municipal year.

3.2 The following substantive items are on the agenda for the one meeting of the 2023/24 municipal year:

	<b>Name of report</b>	<b>Meeting date</b>
<b>1</b>	Annual review of the whistle blowing policy	Annual meeting 26 March 2024
<b>2</b>	Overview of the Council's Freedom of Information performance	Annual meeting 26 March 2024
<b>3</b>	Annual review of complaints	Annual meeting 26 March 2024

3.3 There were ten official standards complaints during the year since early March 2023; full details of these are shown in the appendix. An eleventh complaint has been submitted recently, though it is in fact just more information in support of a complaint that was previously dismissed. Seven of the complaints have been fully dealt with. Two have been the subject of investigations which are complete but as yet neither has been considered by the Standards Complaints Panel or by full Standards Committee; that will happen as soon as possible. One complaint remains outstanding for evaluation by the Director of Legal and Democratic Services but will be dealt with once further clarification has been obtained from the complainant.

3.4 Most complaints were dismissed at the initial stage, as the matters complained about could not reasonably be said to constitute a breach of the Code of Conduct. However, two were relatively complex and required investigations. At the time of writing this report, investigations into each of those complaints have been concluded and are progressing towards their final stages. Both investigations took significant time to complete, due to either the other work pressures of the respective in-house investigating officer or other factors.

3.5 The following trends can be discerned, some of which continued from the previous year:

- Members of the public are increasingly seeking to use the standards regime as a tool to challenge council policies and decisions more generally. This personalisation of disputes is a feature of both local and national politics, and it appears to have been exacerbated by social media.
- The failure or delay by councillors to respond to correspondence or calls. This is a difficult issue, due to the sheer volume of correspondence received by all councillors and the high expectations of those sending that correspondence. However, it is important that all councillors understand their responsibilities to their constituents.
- Members of the public are occasionally seeking to use the standards regime to challenge the actions of councillors in relation to actions outside their council role, which is not permitted by the statutory framework that underpins the standards regime

3.6 The role of the standards regime is set out in [section 27\(1\) of the Localism Act 2011](#). Namely, to “*promote and maintain high standards of conduct by members*” in the course of their council work. It would not be appropriate, save in the most extreme of circumstances, for the standards regime to be used as a route to challenge policy decisions taken by the council as a whole; such a challenge would be for the courts to resolve, in the context of a judicial review challenge of the decision in question.

### **The independent people**

3.7 Section 28(7) of [Chapter 7 of Part 1 of the Localism Act 2011](#) requires that the council appoints at least one “independent person”, whose views should be sought and taken into account before the Council (in practice, the council’s Standards Committee) takes a decision in relation to an allegation that it has decided to investigate. The views of the independent person(s) may also be sought by the member or co-optee about whom the complaint has been made.

3.8 Ealing has customarily appointed two independent people.

3.9 Over the past year the Standards Committee received excellent support from Ms Oumou Sall and Ms Karen Quayle in their role as independent members.

## **4 Financial**

The work of the Standards Committee is funded from within the existing resources of the Legal and Democratic Services team.

## **6. Legal**

The standards regime for councillors is governed by [chapter 7 of part 1 of the Localism Act 2011](#), and a number of statutory instruments that have been made under that Act. The provisions of the Code of Conduct must be read in the context of the [Human Rights Act 1998](#).

## **7. Value For Money**

Implicit within the report.

## **8. Sustainability Impact Appraisal**

No issues.

## **9. Risk Management**

A high standard of conduct by informed members is a key component in reducing risk for the council.

## **10. Community Safety**

No issues.

## **11. Links to the 3 Key Priorities for the Borough**

The council's administration has three key priorities for Ealing. They are:

- fighting inequality
- tackling the climate crisis
- creating good jobs.

## **12. Equalities, Human Rights and Community Cohesion**

No issues.

## **13. Staffing/Workforce and Accommodation implications:**

No issues.

## **14. Property and Assets**

No issues.

## **15. Consultation**

None required.

## **16. Appendices**

Appendix: details of complaints.

## **18. Background Information**

Localism Act 2011, part 1, chapter 7 ( <http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7> )  
Standards Committee report [19<sup>th</sup> January 2012](#) on the implications of the Localism 2011 Act  
Ealing Council's [Code of Conduct for councillors](#)

## Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
<b>Internal</b>				
Emily Hill	Strategic Director, Resources	12 March 2024		
Helen Harris	Director, Legal and Democratic Services	Author		Throughout
Cllr Paul Driscoll	Chair of Standards Committee	12 March 2024		
<b>External</b>				
No external parties consulted				

## Report History

<b>Decision type:</b>	<b>Urgency item?</b>
Non-key decision For information	No
Report no.:	Report author and contact for queries: Helen Harris First and surname, job title: Director of Legal and Democratic Services

## Appendix: summary details of complaints

	Complaint	Section of code alleged to be breached	Outcome / current status
1	Complaint that Cllr 1 was in breach of the Code of Conduct, by reason that they contacted the complainant to ask that the complainant take action in relation to alleged anti-social behaviour by the complainant's tenants.	3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <b>Selflessness .. Integrity ... Leadership ...</b>  4.You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute  5(1)You must treat others with respect.	That the complaint is <u>not</u> referred for investigation.  Reasons :  It is a major part of an elected councillor's role to advocate on behalf of their constituents. In the circumstances described by the complainant, it did not appear that any reasonable interpretation of the Code of Conduct would find a breach. An interpretation of a potential

	<p>[06.10.23: complaint by member of the public]</p>	<p>(2) You must not—</p> <ul style="list-style-type: none"> <li>(a) do anything which may cause the council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);</li> <li>(b) bully any person;</li> <li>(c) intimidate or attempt to intimidate any person who is or is likely to be— <ul style="list-style-type: none"> <li>(i) a complainant,</li> <li>(ii) a witness, or</li> <li>(iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the council's code of conduct; or</li> </ul> </li> </ul> <p>7. You—</p> <ul style="list-style-type: none"> <li>(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage</li> </ul>	<p>breach would mean that potentially no ward councillor could ever offer support to a constituent in relation to a dispute, for fear of putting themselves in a breach situation. The complainant offered no evidence that Cllr 1 was intemperate, rude or aggressive in the language they used in their communication.</p> <p>In the light of the findings set out above, no breach of the Councillors' Code of Conduct would appear to have taken place.</p> <p>The independent standards people were consulted in relation to this complaint and both considered that no breach had taken place.</p>
2	<p>Complaint that Cllr 2 was in breach of the Code of Conduct in relation to their actions in bringing a complaint about council officers in relation to an event.</p> <p>[11.04.2023: complaint by a council officer]</p>	<p>5 (1) You must treat others with respect</p> <p>5(2)(b) You must not bully any person</p>	<p>No decision required, as the complaint was withdrawn. This happened after an investigation by a senior officer led to Cllr 2 withdrawing their related complaint about officers.</p> <p>The independent members were not consulted.</p>

3	<p>Complaint that Cllr 3 was in breach of the Code of Conduct, by failing unreasonably to take account of another councillor’s health and sharing sensitive personal data about them with others.</p> <p>[01.01.2023: complaint by an Ealing councillor]</p>	<p>5.1 You must treat others with respect. 5.2 You must not ... do anything which may cause the council to breach its public sector equalities duty or other responsibilities under the Equalities Act 2010 (or replacement legislation)</p> <p>6. You must not ... disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:</p> <ul style="list-style-type: none"> <li>• you have the consent of a person authorised to give it</li> <li>• you are required by law to do so</li> <li>• the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or</li> <li>• the disclosure is: <ul style="list-style-type: none"> <li>o reasonable in all the circumstances</li> <li>o in the public interest; and</li> <li>o made in good faith and in compliance with the reasonable requirements of the council</li> </ul> </li> </ul>	<p>No decision required as the complaint was never formalised and no information was provided to support it.</p> <p>The independent members were not consulted.</p>
4	<p>Complaint that Cllr 4 was in breach of the Code of Conduct by reason of their failure to respond to emails on a service request issue and not responding to a request for a meeting.</p> <p>[14.04.2023: complaint by a</p>	<p>3. You must maintain a high standard of conduct and comply with the following general principles of conduct: ...</p> <p>Integrity — you should maintain high standards of conduct at all times; you should not place yourself in situation where your integrity may be questioned; and you should avoid any appearance of improper behaviour ...</p> <p>Accountability — you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and</p>	<p>That the complaint is <u>not</u> referred for investigation.</p> <p>Reasons :</p> <ol style="list-style-type: none"> <li>1. The role of the standards regime is set out in <a href="#">section 27(1) of the Localism Act 2011</a>. Namely, to “promote and maintain high standards of conduct by members” in the course of their council work. It would not be appropriate, save in the most extreme of circumstances, for the standards regime to be used as a route to</li> </ol>

	<p>member of the public]</p>	<p>honestly with any scrutiny appropriate to your particular office</p> <p><b>4.</b> You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute</p>	<p>challenge policy decisions taken by the council as a whole or general service delivery issues; such a challenge would be for the courts to resolve, in the context of a judicial review challenge of the decision or level of service provision in question.</p> <p><b>2.</b> Although not best practice, delay in responding to correspondence would not normally be a breach of the Code of Conduct.</p> <p>In the light of the information above, no breach of the Councillors’ Code of Conduct would appear to have taken place.</p> <p>The independent people were consulted and both agreed that the complaint should not be referred for investigation.</p>
5	<p>Complaint that Cllr 5 was in breach of the Code of Conduct by not taking action against an individual who was criticised in an Employment Tribunal decision.</p> <p>[02.10.2023: complaint by member of the public]</p>	<p><b>3.</b> You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity — you should maintain high standards of conduct at all times; you should not place yourself in situation where your integrity may be questioned; and you should avoid any appearance of improper behaviour ... Objectivity — you should make decisions on merit, including when making appointments, awarding contracts, or recommending</p>	<p>That the complaint is <u>not</u> referred for investigation.</p> <p>Reasons :</p> <p><b>1.</b> The role of the standards regime is set out in <a href="#">section 27(1) of the Localism Act 2011</a>. Namely, to “promote and maintain high standards of conduct by members” in the course of their council work. It would not be appropriate, save in the most extreme of circumstances, for the</p>

		<p>individuals for rewards or benefits ... Accountability – you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office ... Honesty – you should be truthful in your council work and, particularly in dealings with the public, you should not knowingly make false statements of fact.</p> <p>4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute.</p>	<p>standards regime to be used as a route to demand intervention by the council in a matter in which it has no jurisdiction.</p> <p>2. Even if Ealing Council were to be found to have jurisdiction to intervene in this matter, it would not be appropriate to use the standards regime as a device to challenge the approach of the council in relation to any policy or council service delivery decision reached; such a challenge would be for the courts to resolve, in the context of a formal legal challenge of the decision in question.</p> <p>Both independent members were consulted and both agreed that no breach of the Code appeared to have taken place.</p>
6	<p>Complaint that Cllr 6 failed to exercise their discretion to require a particular decision route for a service matter of interest to the complainant.</p> <p>[23.10.2023: complaint by a member of the public]</p>	Unclear.	<p>No decision taken as the complaint was not pursued.</p> <p>However, it is considered that in any event it would not have been appropriate to refer the complaint for investigation, as the standards regime is not to be used to challenge council service decisions.</p> <p>Independent members were not consulted.</p>
7	Complaint that Cllr 7 was in breach of the Code of Conduct by reason of their	3. You must maintain a high standard of conduct and comply with the following general	No decision taken as the complaint was not pursued.



	<p>alleged actions in relation to tenants of a property they own and let out in their private capacity.</p> <p>[22.02.2024: complaint by a member of the public]</p>	<p>principles of conduct: ... Integrity — you should maintain high standards of conduct at all times; you should not place yourself in situation where your integrity may be questioned; and you should avoid any appearance of improper behaviour ... Accountability — you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office</p> <p><b>4.</b> You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute</p> <p>5.1 You must treat others with respect.</p>	<p>However, it is considered that, had the complaint been pursued, it would not have been appropriate to refer the complaint for investigation, as the law is explicit that the Code of Conduct for Councillors applies only when councillors are acting in the capacity as councillors. (See <a href="#">section 27(2) of the Localism Act 2011</a>):</p> <p>It was clear that the complaint related entirely to Cllr 7's private affairs of business and not to their work as an Ealing councillor.</p> <p>Independent members were not consulted.</p>
8	<p>Complaint that Cllr 8 was in breach of the Code of Conduct by putting personal information about a member of the public on social media inappropriately and without their consent, which the complainants say led to the member of the public being subjected to online personal attacks.</p> <p>[20.06.2023: complaint by two members of the public]</p>	<p><b>3.</b> You must maintain a high standard of conduct and comply with the following general principles of conduct: .... <b>Integrity</b> — you should maintain high standards of conduct at all times; you should not place yourself in situations where your integrity may be questioned; and you should avoid any appearance of improper behaviour ... <b>Leadership</b> — you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence</p> <p><b>4.</b> You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute</p> <p><b>5(1)</b> You must treat others with respect (2) You must not—</p>	<p>That the complaint is referred for investigation.</p> <p>Independent members were consulted and both agreed with the decision to refer for investigation.</p> <p>Note that the investigation is now complete, and the investigator is liaising with the complainants and Cllr 8 regarding next steps.</p>

		<p>(a) ...</p> <p>(b) bully any person</p> <p><b>6. You must not—</b></p> <p>(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—</p> <p>(i) you have the consent of a person authorised to give it;</p> <p>(ii) you are required by law to do so;</p> <p>(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or</p> <p>(iv) the disclosure is—</p> <p>(aa) reasonable in all the circumstances,</p> <p>(bb) in the public interest; and</p> <p>(cc) made in good faith and in compliance with the reasonable requirements of the council.</p> <p>9. The requirement to comply with the provisions of this Code is subject to rights of councillors under the Human Rights Act 1998, in particular Article 10 (Freedom of Expression)</p>	
9	Complaint that Cllr 9 was in breach of the Code of Conduct by reason of the content of email correspondence with	<p><b>3. You must maintain a high standard of conduct and comply with the following general principles of conduct: ...</b></p> <p><b>Integrity</b> — you should maintain high standards of conduct at all times; you</p>	<p>That the complaint is referred for investigation.</p> <p>Independent members were consulted and both agreed with</p>

	<p>a number of Ealing councillors.</p> <p>[28.09.2023: complaint by an Ealing councillor]</p>	<p>should not place yourself in situations where your integrity may be questioned; and you should avoid any appearance of improper behaviour ... <b>Leadership</b> — you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence</p> <p><b>4.</b>You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute</p> <p><b>5(1)</b> You must treat others with respect  (2) You must not—  (a) ...  (b) bully any person</p> <p>9. The requirement to comply with the provisions of this Code is subject to rights of councillors under the Human Rights Act 1998, in particular Article 10 (Freedom of Expression)</p>	<p>the decision to refer for investigation.</p> <p>Note that the investigation was completed several months ago. Referral of that complaint to the next stage was paused pending the resolution of other matters external to Ealing Council. However, following a recent update, it is likely that the investigation report will be referred for determination shortly.</p>
10	<p>Complaint that Cllr 10 was in breach of the Code of Conduct in respect of the following alleged behaviours:</p> <ul style="list-style-type: none"> <li>- Forced the complainant to make a public apology for historic social media posts, before Cllr 10 would agree to meet the complainant</li> <li>- Acted unfairly and unreasonably, by treating other residents more leniently than</li> </ul>	<p>3. You must maintain a high standard of conduct, and comply with the following general principles of conduct:</p> <p>Objectivity — you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefit</p> <p>5.1 You must treat others with respect.</p> <p>5.2 You must not:  b. bully any person</p> <p>7. You: a. must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;</p>	<p>That the complaint is <u>not</u> referred for investigation.</p> <p>Reasons:  The complainant offered no evidence to support their very serious allegations, despite a detailed invitation to do so. In these circumstances, it was not possible to justify allocating the very significant resources that would be involved in an investigation.</p> <p>Both independent people were consulted.</p>

	<p>the complainant</p> <ul style="list-style-type: none"> <li>- Sent a parking enforcement officer to the complainant's home with an instruction that they issue a parking contravention notice, without justification</li> <li>- Held a number of public engagement events to which only a limited sample of residents were invited, with the express intention to then take decisions based only on that limited sample</li> <li>- Is destroying the borough with very biased decisions that are opposed by local residents</li> </ul> <p>[18.12.2023: complaint by a member of the public]</p>		
11	The complainant on (10) above is in the process of submitting		Complaint will be considered by the DLDS once all the

<p>information in support of their allegations.</p> <p>[2024: complaint by a member of the public]</p>		<p>information has been submitted.</p>
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Reasons :

1. The law is explicit that the Code of Conduct for Councillors applies only when councillors are acting in the capacity as councillors. (See [section 27\(2\) of the Localism Act 2011](#)):

In discharging its duty under subsection, a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

It was clear that the complaint related entirely to Cllr 4's private professional work and not to their work as an Ealing councillor.

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