

<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><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>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><b>2.</b> 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	<p><b>3.</b> You must maintain a high standard of conduct and comply with the following general</p>	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.