

<b>Contains Confidential or Exempt Information</b>	<b>NO</b>
<b>Title</b>	Annual Review 2022/23
<b>Responsible Officer(s)</b>	Director of Legal and Democratic Services
<b>Author(s)</b>	Helen Harris
<b>Portfolio(s)</b>	Non-executive function
<b>For Consideration By</b>	Full council
<b>Date to be Considered</b>	25 <sup>th</sup> April 2023
<b>Implementation Date if Not Called In</b>	Not applicable
<b>Affected Wards</b>	None
<b>Keywords/Index</b>	Standards Committee annual review 2022/23

**Purpose of Report:**

A report summarising the work of the Standards Committee over the past year, including an overview of formal complaints made about councillors

**1. Recommendations**

It is recommended that full council:

1.1 Notes the work and achievements of the committee and its independent people during the past year, and

1.2 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 Members 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 locally delivered training for all our councillors.

2.5 Following the May 2022 local elections, all Ealing councillors undertook formal training on governance issues, including 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 amongst 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>
2013/14	12	2
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	None.
2022/23	6	None so far, although one complaint remains outstanding for resolution.

### 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 2022/23 municipal year:

	<b>Name of report</b>	<b>Meeting date</b>
<b>1</b>	Annual review of the whistle blowing policy	Annual meeting 9 <sup>th</sup> March 2023
<b>2</b>	Overview of the Council’s Freedom of Information performance	Annual meeting 9 <sup>th</sup> March 2023
<b>3</b>	Annual review	Annual meeting 9 <sup>th</sup> March 2023

3.3 There were six official standards complaints during the year since early March 2022; full details of these are shown in the appendix. Five of the complaints have been fully dealt with; one remains outstanding but will be dealt with shortly.

3.4 There were less delays in dealing with complaints this year than in the previous year, due to a combination of the reduction in numbers and the end of the COVID19 pandemic and the consequently positive impact on officer workloads. The reduction in the number of complaints appears to have been due to the removal of the Law Traffic Neighbourhoods, which had been the key underlying factor behind the spike of complaints in the 19/20 and 21/22 municipal years.

3.5 Two of the complaints in the 21/22 municipal year related to issues on the GLA / London Mayoral elections, which were held in May 2021. It is encouraging to note that the May 2022 local elections did not generate any standards complaints.

3.6 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.

- A worrying trend for unsubstantiated but very serious allegations against councillors to be made anonymously. In such circumstances, it is difficult to avoid the conclusion that such complaints are malicious. This trend is worrying, particularly in its potential to discourage worthy candidates from standing for public office.

3.7 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**

3.8 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.

3.9 Ealing has customarily appointed two independent people.

3.10 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.

## **5. 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](#).

## **6. Value For Money**

Implicit within the report.

## **7. Sustainability Impact Appraisal**

No issues.

## **8. Risk Management**

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

## **9. Community Safety**

No issues.

## **10. 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.

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

No issues.

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

Resources to support the standards work are provided from within the Legal and Democratic Services team.

## **13. Property and Assets**

No issues.

## **14. 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>				
	Director of Legal and Democratic Services	Author		
<b>External</b>				
	No external parties consulted.			

## Report History

<b>Decision type:</b>	<b>Urgency item?</b>
Non-key decision	No
Report no.:	Report author and contact for queries: Helen Harris 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 ten councillors were in breach of the Code of Conduct, as hacked the complainant's private data, used that data to take part in legal cases against them, acted as covert human intelligence sources against them, lied about them, and shared their private data with third parties.  [25.07.2022: complaint by	3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <b>Integrity</b> ... <b>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.You must treat others with respect.  6.You must not: 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 ..	That the complaint <u>not</u> be referred for investigation.  Reasons :  1. Despite being asked, the complainant produced no evidence to support the complaint.  2. It is not standard practice to accept a complaint with no evidence whatsoever to support it. However, on this occasion the complaint was accepted because of the very serious nature of the complaints made and

	<p>member of the public]</p>		<p>the complainant's insistence that the evidence to support it existed.</p> <p>Initial enquiries found no indication either that any data is held about the complainant by the complaine councilors or that any such data was ever inappropriately used.</p> <p>3. Enquiries were also made of various council data systems, and none indicated that the complainant was known to Ealing Council, save that the complainant made a data subject access request earlier in 2022.</p> <p>In the light of the findings set out above, no breach of the Councilors' Code of Conduct would appear to have taken place.</p> <p>The independent standards people were not consulted in relation to this complaint, as there was no information to consult with them about.</p>
2	<p>Complaint that Cllr 1, in responding to a question from the complainant at a public meeting:</p> <p>1. Treated the complainant in an aggressive, humiliating, insulting,</p>	<p>3.</p> <p><b>(a)</b> General Principles: Integrity — 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</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons :</p> <p>The information given by the complainant gives a clear indication as to how Cllr 1's remarks at the meeting impacted the complainant, who was clearly upset.</p>

	<p>and patronising manner.</p> <p>2. Failed to give a clear answer to the question, and</p> <p>3. Failed to make the complainant feel safe or comfortable as a resident engaging with the council in a public arena.</p> <p>[28.07.2022: complaint by member of the public]</p>	<p><b>(b) General Principles:</b> Leadership — 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>4. You must not conduct yourself in 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>5(2)(b) You must not bully any person</p>	<p>Cllr 1 was robust and highly political in their remarks to the complainant. The nature of Cllr 1’s remarks were unusual towards a member of the public but mild by the standard of debate between councillors within a full council meeting. Cllr 1 appeared to treat the complainant more like a councillor from a different political group than a member of the public. However, in all the circumstances, this did not appear to show a lack of respect, bullying behaviour, or such as to bring the council into disrepute.</p> <p>Circumstances that are of particular relevance were:</p> <p><b>A.</b> That the complainant stood as a party political candidate in recent elections. This fact of the complainant’s very recent candidature made it reasonable for Cllr 1 to take a more robust approach with the complainant that they might have chosen for other members of the public.</p> <p><b>B.</b> That the complainant underlined the political nature of their question by, in their supplementary question, referring to aspects of a political party’s Manifesto.</p>
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			<p>C. That Cllr 1 nevertheless remained respectful in their remarks.</p> <p>It was noted that Cllr 1 answered the question put to them and repeated several times the offer to answer separately with the complainant to discuss any concerns about the subject of the public interaction.</p> <p>In all the circumstances Cllr 1's behaviour could not reasonably be said to constitute a breach of the Code of Conduct and the complaint should not therefore be referred for a full investigation.</p> <p>The independent members were consulted.</p>
3	<p>Complaint that Cllrs 2 and 3 were in breach of the Code of Conduct, by not looking after the interests of local people by reason of their role in policy and decision making. The complainant is specifically concerned about air quality in the vicinity of a local railway station and the use of Transport for London funding for traffic projects.</p>	<p>3. You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <b>Integrity ... Objectivity ... Accountability ... Honesty ...</b></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>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons :</p> <p>1. It was clear from the wording of the complaint that the complainant felt very strongly about important issues of air quality in the vicinity of the station and the role of Ealing Council policy and decision making in relation to those issues. However, that is a policy matter and not a matter of compliance by individual councillors with the Code of</p>

	<p>[05.11.2022: complaint by member of the public]</p>		<p>Conduct for Councillors.</p> <p>2. The role of the standards regime is set out in <a href="#">section 27(1) of the Localism Act 2011</a>. Namely, to “<i>promote and maintain high standards of conduct by members</i>” in the course of their council work.</p> <p>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.</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>Both independent members were consulted. Both agreed that this was not a complaint about behaviour appropriate to be dealt with under the standards regime.</p>
4	<p>Complaint that Cllr 4 acted improperly in relation to their profession.</p>	<p>The Code did not apply, as the complaint related to allegations of behaviour other than in Cllr 4’s capacity as a councillor.</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons :</p>

	<p>[12.10.2022: complaint by an anonymous person]</p>		<p><b>1.</b> 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>): 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.</p> <p><b>2.</b> Ealing Council's adopted Standards Procedure makes clear (section 2.2) that: Complainants must give their name. Anonymous complaints will not be accepted although in exceptional circumstances the DLDS may agree to a request that a complainant's name be withheld from the complainee</p> <p>In the circumstances of:</p> <ul style="list-style-type: none"> <li>- the potentially libellous nature of the complaint allegations</li> <li>- the fact that they were entirely unsubstantiated,</li> </ul>
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			<p>- that the complaint clearly related to Cllr 4's private profession, and</p> <p>- that the complainant did not give their name or valid contact details</p> <p>the decision was taken to not consult the independent people.</p>
5	<p>Complaint that Cllr 5 responded to the complainant's enquiry email with a holding email but then failed to communicate further, despite chasing.</p> <p>[24.01.2023: complaint by member of the public]</p>	<ul style="list-style-type: none"> <li>- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute</li> <li>- You must treat others with respect</li> <li>- You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <b>Accountability</b></li> </ul>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reason :</p> <p>Failure to respond to correspondence would <i>not</i> normally amount to a potential breach of the code of conduct, even though failure to respond to correspondence for a significant period of time might be an example of less than ideal behaviour by an elected councillor, if the issue being raised had not already been dealt with elsewhere.</p> <p>In these circumstances, a full investigation would not be appropriate or justified.</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, in the course of a public meeting, referred to information that was confidential.</p>	<p>6. You must not—</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,</p>	<p>Complaint is outstanding for a decision by the DLDS on whether to refer it for investigation.</p>

<p>[13.01.2023: complaint by a councillor]</p>	<p>is of a confidential nature, except where—</p> <ul style="list-style-type: none"> <li>(i) you have the consent of a person authorised to give it;</li> <li>(ii) you are required by law to do so;</li> <li>(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</li> <li>(iv) the disclosure is— <ul style="list-style-type: none"> <li>(aa) reasonable in all the circumstances,</li> <li>(bb) in the public interest; and</li> <li>(cc) made in good faith and in compliance with the reasonable requirements of the council; or</li> </ul> </li> </ul> <p>(b) prevent another person from gaining access to information to which that person is entitled by law.</p>	<p>Independent members have both been consulted.</p>
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