

**Report for:
INFORMATION**

Item Number:

Contains Confidential or Exempt Information	NO
Title	Standards Committee Annual Review 2020/21
Responsible Officer(s)	Director of Legal and Democratic Services
Author(s)	Helen Harris
Portfolio(s)	Leader
For consideration by	Full council
Date to be Considered	27 th April 2021
Implementation Date if Not Called In	Not applicable, as decision not subject to call-in
Affected Wards	None
Keywords/Index	Standards Committee annual review 2020/21

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 Notes and approves the updated Standards Procedure, set out at appendix 2

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. A report elsewhere on this agenda suggests options for refreshing the council’s Code.
- 2.5 Following the May 2018 local elections, all Ealing councillors undertook formal face to face training on governance issues, including the Code of Conduct for Councillors. This 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 Officers also organised bespoke training for members on equalities issues, delivered (via three Zoom sessions) by David Wheeler of DWC. This training follows the e-learn equalities training completed by some members, as a result of a Standards Committee recommendation in March 2019. The DWC training was organised as a result of relatively low rates of completion of the e-learning module and feedback from some of those members who completed it that the training was not ideal.
- 2.7 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.
- 2.8 The figures in the table below show the number of Ealing Council standards complaints over the last ten years:

Year	Total number of complaints	Complaints dealt with by Standards Committee
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	None so far, though several complaints remain outstanding to be finally determined.

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. None of those additional dates were used this year, though a Standards Assessment Panel meeting has been organised for 23rd March.

3.2 The following substantive items were on the agenda for the one meeting of the 2020/21 municipal year:

	Name of report	Meeting date
1	Annual review of the whistle blowing policy	Annual meeting 18 th March 2021
2	Overview of the Council's Freedom of Information performance	Annual meeting 18 th March 2021
3	Annual review	Annual meeting 18 th March 2021
4	Standards Procedure updates, and LGA model code	Annual meeting 18 th March 2021

3.3 There were twenty-one official standards complaints during this municipal year; full details of these are shown in the table at appendix 1. Sixteen of the complaints (rows 3 – 18 in appendix 1) related to the Local Traffic Neighbourhoods (LTNs) project in some way. Fifteen of the complaints have been fully dealt with. One has been the subject of an investigation report and is due to be considered at Standards Assessment Panel on 23rd March. Three remain outstanding for a decision on whether they should be referred for investigation. Informal resolution is being pursued in two cases.

3.4 There were significantly longer delays in dealing with complaints this year than in previous years. This was due in part to significantly increased officer workloads during the COVID pandemic and in part to the significantly increased number and complexity of the complaints submitted. It was also felt appropriate to address many of the linked complaints at the same time, to better ensure consistency of approach; this led to further delays.

3.5 The fact that there were twenty-one complaints made during a single year, all by members of the public, is a matter of concern – albeit that some members of the public submitted several complaints.

3.6 It is clear that the LTNs project has seriously skewed the standards complaints landscape this year, during a period when it might have been hoped that complaints would decline. The following trends seem to be apparent:

- 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 the use of social media.
- A widespread misconception that it is unethical, unfair, and a breach of the Code for councillors to take part in decision making in circumstances where they have previously expressed a view on the subject matter.
- 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.

- The use of social media to place councillor behaviours under particularly close scrutiny
- The very close analysis of any councillor activity on social media

3.7 The law is clear that councillors may express their views in advance of matters coming before them for consideration. [Section 25 of the Localism Act 2011](#) states that:

(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.

This is sensible, and in line with the historic practice of politicians at local and national level; to take a different approach would mean that a politician would be precluded automatically from taking part in decision making in circumstances where they had previously expressed any view on the issue in question.

3.8 The human rights of councillors, with regard to freedom of expression, are also ([article 10 \(Freedom of Expression\) of the Human Rights Act 1998](#)):

Freedom of expression

1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The requirement for councillors to comply with the Code is expressed to be (section 9 of the Code) subject to the Article 10 rights of councillors. Freedom of expression would include the right to express opinions via social media.

3.9 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.

3.10 The introduction of virtual meetings has presented new challenges for members, with observers now able to review recordings of meetings in detail after the event.

3.11 A few informal complaints were received by the DLDS from officers during the course of the year. These were all dealt with by discussion with the councillor concerned, with the appropriate party whip kept informed, save for one – which is likely to progress to a formal complaint.

The Standards Procedure

3.12 In 2012 the council took the decision to retain its Standards Committee and adopted a detailed procedure for the consideration of standards complaints. Standards Committee reviewed that procedure, and the updated procedure is attached at appendix 3.

The independent people

3.13 The Standards Committee has continued to receive excellent support throughout the municipal year from its two-independent people (Ms Oumou Sall and Ms Wendy Jones).

The standards committee is statutorily required to appoint at least one independent person.

The council is particularly grateful for the work of Ms Sall and Ms Jones this year, due to the unusually high number of complaints.

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 Priorities for the Borough

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

- Good, genuinely affordable homes
- Opportunities and living incomes
- A healthy and great place

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

Various groups of members were consulted in relation to the work of the committee in formulating and implementing the council's approach to the statutory standards regime.

16. Appendices

Appendix 1: details of complaints

Appendix 2: new Procedure for Dealing with Standards Complaints

17. Background Information

[Localism Act 2011, part 1, chapter 7](#)

Standards Committee report [19th January 2012](#) on the implications of the Localism 2011 Act

[Full council report of October 2017](#) appointing the new independent people
Confidential decision of Standards Committee dated 17th January 2019.

Full council meeting of 3 April 2019, recommending including a recommendation that all councillors undertake equalities training.

Ealing Council's [Code of Conduct for councillors](#)

Full council [report](#) 12 June 2012, recommending changes to the council's standards regime in the light of the Localism Act 2011.

[Standards Committee report, 18th March 2021](#)

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
	Director of Legal and Democratic Services	Author		
	Standards Committee		18 th March 2021	
External				
	No external parties consulted.			

Report History

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

Appendix 1: summary details of complaints

	Complaint	Section of code alleged to be breached	Outcome / current status
1	Complaint that that Cllr 1 put a request on social media, during the COVID lockdown period, asking whether a hairdresser was available to visit them at home. Had such a visit happened, it might have constituted a criminal offence.	3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <i>Integrity</i> – 4.You must not conduct yourself in a manner which could reasonably	DLDS took the decision to <u>not</u> refer the complaint for investigation. Reasons: 1.Although the allegations are potentially very serious, they do not relate to actions taken by Cllr 1 in the course of their work as a councillor or otherwise

	<p>[04.05.2020: complaint by member of the public]</p>	<p>be regarded as bringing your office or the council into disrepute</p>	<p>on behalf of the council. On the contrary, the allegations appear to relate entirely to a request for services at home, in Cllr 1's private life.</p> <p>2.Ealing Council's Code of Conduct for Councillors is not permitted to cover non-council activity. What this means is that, if an investigation were to find that the complainant's allegations were true, there would nevertheless be no breach of the Code of Conduct.</p> <p>The two independent people were consulted,.</p> <p>[Date of DLDS decision: 04.08.2020]</p>
2	<p>The complaint relates to Cllr 2, in their capacity as a member of the Planning Committee:</p> <p>(1) Improperly attended a consultation event, and indicated at that event that they had already made up their mind about how they would vote at Planning Committee – which had not yet met to consider the planning application</p> <p>(2) Improperly met with a representative of the applicant</p> <p>(3) Failed to complete required records of</p>	<p>The Code of Conduct for Members in Relation to Planning Matters: This Code forms part of Ealing's Local Code of Conduct for Councillors ..."</p> <p>(5) It is recognised that there is an increasing role for members at both the pre-application and application stages of planning proposals. This is encouraged provided members' roles are clearly understood. The role needs to be unambiguous and transparent to members themselves and to</p>	<p>That the complaint <u>be referred</u> for investigation.</p> <p>Reasons: The information given by the complainants, whilst it has not yet been investigated, suggests that the manner in which Cllr 2 conducted themselves <u>may potentially have constituted a breach</u> of one or more provisions of the Code.</p> <p>Note that the referral specifically stated that Cllr 2 could <u>not</u> be reasonably said to be in breach of the</p>

	<p>their attendance at the above two events</p> <p>(4) At the Planning Committee:</p> <p>(i) Allowed inaccurate statements to go unchallenged, and</p> <p>(ii) Was unfairly biased in favour of the applicant</p> <p>[06.04.2020: complaint by twenty-eight members of the public]</p>	<p>developers and the public..."</p> <p>"... Any presentations or discussions with developers should be part of structured arrangements agreed with officers in advance and may also include other interested parties ..."</p> <p>"... Meetings and any presentations should be limited to the development proposal and a question and answer session on factual matters on the clear basis that the discussion is being held to improve understanding and not to discuss the merits of the application ..."</p> <p>(7) If you are approached about a planning matter ... by any applicant ... (b) Disclose any such contact ..."</p> <p>(9) If you are approached about a planning matter and you are a member of the Planning Committee you should ... (a) Consider whether or not your impartiality as a decision maker might be compromised or seen to be compromised by such contract, and (b) Avoid given any commitment, or the impression of a commitment, to take any particular stance in relation to a forthcoming decision of the planning Committee"</p>	<p>Code of Conduct by allowing potential inaccuracies to go unchallenged at committee. That is because it is not the responsibility of a councillor, or a requirement of the council's Code of Conduct, to ensure that all potentially inaccurate statements are challenged during the meeting. That is the role of the planning process as a whole. Accordingly, this aspect of complaint did not form part of the investigation.</p> <p>An investigator was appointed and, after a long and thorough investigation, her report will be presented to the Standards Assessment Panel on 23rd March. The report is not coming to Standards Committee at this stage, as the investigator has concluded that no breach of the Code took place.</p>
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		<p>The Local Code of Conduct for Councillors:</p> <p>(3) The General Principles: Objectivity – you should make decisions on merit</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>	
3	<p>Relates to complaint (4) below.</p> <p>Complaint that Cllr 3 was in breach of the Code of Conduct, by reason of their conflict of interest as an employee of a company with which the council entered into contract.</p> <p>[08.07.2020: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Selflessness ... Integrity.</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>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, as advantage or disadvantage.</p> <p>PART 3 - INTERESTS Pecuniary interests and registration – disclosure of pecuniary interests – Gifts and Hospitality</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons:</p> <p>1.Cllr 3 correctly declared a disclosable pecuniary interest in the company, within their published declaration of interests. This was done before the contract was let. Cllr 3 was completely transparent about this from the point that the company entered consideration for Ealing contracts, and Cllr 3 took no part in any decision making in relation to the company. The decision to let the contract was taken by an officer and the record of that decision included a note of Cllr 3's interest and confirmation that Cllr 3 took no part in the contract decision, either as a councillor or employee of the contractor.</p> <p>2.The contract was not considered by a member-level body of which Cllr 3</p>

			<p>was part and did not fall within any special responsibilities of Cllr 3.</p> <p>Both independent people were consulted, and both agreed that no breach of the Code appeared to have taken place.</p> <p>[Date of decision: 21.02.21]</p>
4	<p>Relates to complaint (3) above.</p> <p>Complaint that that Cllr 4 was in breach of the Code, by reason that they should have been aware of the conflict of interest of Cllr 3 and taken steps to intervene.</p> <p>[08.07.2020: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Selflessness ... Integrity.</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>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, as advantage or disadvantage.</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>1.Cllr 4 was aware of Cllr 3's interest in the company and that Cllr 3 had correctly declared a disclosable pecuniary interest in the company.</p> <p>2.Cllr 4 was aware that Cllr 3 took no part in any decision making in relation to the company.</p> <p>Both independent people were consulted, and both agreed that no breach of the Code appeared to have taken place.</p> <p>[Date of decision: 21.02.21]</p>
5, 6, and 7	<p>Complaint that none of Councillors 5, 6, and 7 responded to correspondence sent to them.</p>	<p>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>Reasoning: Failure to respond to correspondence would <i>not</i> normally amount to a</p>

	<p>[09.02.2021: complaint by member of the public]</p>	<p>You must treat others with respect</p> <p>You must maintain a high standard of conduct and comply with the following general principles of conduct: ...</p> <p><i>Accountability.</i></p>	<p>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 elected councillors, if the issue being raised had not already been dealt with elsewhere.</p> <p>Both independent people were consulted.</p> <p>[Date of decision: 07.03.21]</p>
8	<p>Relates to complaint (9) below.</p> <p>Complaint that Cllr 8 was in breach of the Code of Conduct, in relation to their role in decisions taken on LTNs:</p> <ul style="list-style-type: none"> - Cllr 8, as a keen cyclist and against the car, should not be making decisions on LTNs. - The replacement of bollards with cameras is proof that the LTNs project is ill-conceived - The increase in traffic levels has had a negative impact on the response times of emergency services - The introduction of an LTN scheme had caused nothing but chaos on the roads. - Many local people marched to demonstrate against LTNs. 	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ...</p> <p>Integrity ... Objectivity ... Accountability ...</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>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, as advantage or disadvantage.</p>	<p>Reasons :</p> <p>No breach of the Councillors' Code of Conduct would appear to have taken place.</p> <p>Detailed reasons:</p> <p>1.In relation to Cllr 8's status as a known cyclist, section 25(2) of Localism Act 2011 states that:</p> <p>25(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—</p> <p>(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in</p>

	<p>- As a result of LTNs, the traffic on main roads has drastically increased, adversely affecting the health of local school children.</p> <p>- There were no traffic problems before the LTNs were implemented, which indicated there were no grounds for them</p> <p>[23.09.20: complaint by member of the public]</p>		<p>relation to a matter, and (b) the matter was relevant to the decision</p> <p>In the circumstances of section 25(2), it would not be reasonably possible to conclude, following investigation, that Cllr 9's position as a keen cyclist meant that they definitely had a closed mind in relation to decision making on the LTNs project.</p> <p>2.The complainant's other points of complaint relate entirely to the rationale behind the LTNs policy in Ealing borough rather than the specific conduct of Cllr 8.</p> <p>The complainant did not provide any evidence of improper decision-making behaviour by Cllr 8 as an individual, such as to potentially amount to a breach of the Code of Conduct.</p> <p>Both independent people were consulted, and both agreed that no breach of the Code appeared to have taken place.</p> <p>[Date of decision: 21.02.21]</p>
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<p>9</p>	<p>Relates to complaint 8 above.</p> <p>Complaint that Cllr 9 was in breach of the Code of Conduct, in relation to their role in decisions taken on Low Traffic Neighbourhood schemes (LTNs):</p> <ul style="list-style-type: none"> - The replacement of bollards with cameras is proof that the LTNs project was ill-conceived - The increase in traffic levels had a negative impact on the response times of emergency services - The introduction of the LTN scheme around the area had caused nothing but chaos on the roads. - Many local people marched to demonstrated against LTNs. - As a result of LTNs, the traffic on main roads had drastically increased, adversely affecting the health of local school children. - There were no traffic problems before the LTNs were implemented, which indicates there are no grounds for them. <p>[23.09.20: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity ... Objectivity ... Accountability ...</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: The complainant's points of complaint related entirely to the rationale behind the LTNs policy in Ealing borough. It would not be appropriate for the standards regime to be used as a route to challenge policy decisions taken by the council; such a challenge would be for the courts to resolve, in the context of a judicial review challenge of the decision in question, save in the most extreme of circumstances. The complainant's submission did not provide any evidence of improper decision-making behaviour by Cllr 9 as an individual, such as to potentially amount to a breach of the Code of Conduct.</p> <p>Both independent people were consulted, and both agreed that no breach of the Code appeared to have taken place.</p> <p>[Date of decision: 21.02.21]</p>
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<p>10 and 11</p>	<p>Complaint that Cllrs 10 and 11 were in breach of the Code of Conduct, in relation to their role on LTNs, by:</p> <ul style="list-style-type: none"> - actively supporting LTNs and actively engaging with some residents, via social media, asking for locations for local highways measures to help with social distancing, walking, cycling and minimising rat running, and then sending feedback onto council officers without question or scrutiny - Doing so in a way that included only their social media followers who already support LTNs - In doing so, acting in a way that was biased and prejudicial to those constituents who do not support LTNs - In doing so, failing to be objective, impartial and independent - In doing so, acting in an underhand and dishonest way and committing a criminal offence <p>[04.12.20: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: Selflessness ... Integrity ... Objectivity ... Accountability ... Honesty.</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>8. 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>PART 3 - INTERESTS Pecuniary interests and registration – disclosure of pecuniary interests – Gifts and Hospitality</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons :</p> <ol style="list-style-type: none"> 1.The social media posts in question did not mention LTNs. 2.In relation to the complaint that Cllrs 10 and 11 engaged with local residents in a way that included only their social media followers who already support LTNs. To uphold this complaint would be to put all councillors under an obligation to always consult widely, via means other than just social media, before seeking any ideas from local residents. 3.As the social media posts did not actually mention LTNs, it was difficult to agree that only people who agree with LTNs would have responded. 4.In relation to the complaint that Cllrs 10 and 11 were in breach of the Code by engaging only with people who already agreed with their ideas, the posts in which the councillors sought ideas were not private or restricted in any way. The Cllrs were not carrying out a formal consultation exercise. There was no guarantee that ideas would be proposed for implementation and implementation would require a formal decision-
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		<p>making process, which is what happened.</p> <p>5. In relation to the complaint that Cllrs 10 and 11 acted in a way that was biased and prejudicial to those constituents who do not support LTNs. There was no evidence to support the allegation that either Cllr 10 or Cllr 11 had acted in a biased or prejudicial way. The responses received appear to suggest ideas for a range of measures – most of which would not be LTNs.</p> <p>6. there was no evidence to support the allegation that either councillor had derived personal benefit or advantage from LTNs.</p> <p>7. In relation to the complaint that Cllrs 10 and 11 failed to be objective, impartial and independent. There was no evidence that supported this to a point that might reasonably be said to amount to a breach of the Code.</p> <p>8. In relation to the complaint that Cllrs 10 and 11 acted in an underhand and dishonest way and committed a criminal offence. Analysis indicated that neither Cllr could reasonably be said to have committed a criminal offence under sections 30, 31 or 32 of the Localism Act 2011.</p> <p>9. The Disclosable Pecuniary Interests of Cllrs 10 and 11 were correctly published. There was no</p>
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			<p>evidence of a DPI that either councillor has but which is not registered.</p> <p>10. Nor had any evidence been provided that either cllr. took part in any decision making in relation to a matter in which they have a DPI.</p> <p>It would be a breach of the right to free speech (Human Rights – article 10) of Cllrs 10 and 11 to hold them potentially in breach of the Code for arguing on one side of a debate rather than the other.</p> <p>Both independent people were consulted, and both agreed that no breach of the Code appeared to have taken place.</p> <p>[Date of decision: 04.03.21]</p>
12	<p>Complaint that Cllr 12 was in breach of the Code of Conduct, in relation to LTNs:</p> <ul style="list-style-type: none"> - by reason of their position with a public transport organisation, being clearly biased and discriminatory to anyone who is not pro-LTNs, and thus being in breach of all of the general principles of conduct for councillors - by continuing to express their support for LTNs, not serving the public interest and improperly conferring on themselves as a pro-LTN person, and discriminating against people who are not in favour of LTNs 	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity ... Objectivity ... Accountability ... Honesty ... Leadership –</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>5.(2) You must not ... (d) do anything which</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons:</p> <p>1.In relation to the complaint that Cllr 12 was biased and discriminatory to anyone who is not pro-LTNs, and thereby in breach of the Code. This aspect of the complaint implies that Cllr 12 should not express any opinions on either side of the LTNs argument, in advance of a meeting where LTNs-related decisions are taken.</p>

	<p>- by showing and expressing their support for LTNs: bringing their office or the council into disrepute, and compromising the impartiality of the who work for or on behalf of the council</p> <p>- committing a criminal offence, by reason of their conduct in relation to LTNS breaching Part 3 of the Code</p> <p>[07.02.21: complaint by member of the public]</p>	<p>compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the council</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>8. 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>PART 3 – INTERESTS Pecuniary interests and registration – disclosure of pecuniary interests – Gifts and Hospitality</p>	<p>However, the law is clear that such a restriction does not exist.</p> <p>Section 25 of the Localism Act 2011</p> <p>Section 25 makes it clear that Cllr 12’s actions, in publicly stating their views in support of a range of LTNs-related policy issues, both as a board member and elsewhere, could not legally be taken as implying that they would have had a closed mind in relation to any subsequent decisions they took part in, in relation to LTNs.</p> <p>2.In relation to the complaint that Cllr 12, in promoting LTNs, served their own personal benefit and advantage rather than the public interest. There is nothing in the law or in the Code that prohibits a councillor from participating in decision making in relation to an area of particular interest or passion, save the rules in relation to disclosable pecuniary interests (DPIs).</p> <p>3.In relation to the complaint that Cllr 12 discriminated against people who were not in favour of LTNs, the law (and the Code) does not recognise discrimination in this context, as opinions on traffic measures are not one of the protected characteristics identified</p>
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		<p>within section 4 of the Equalities Act 2010</p> <p>4.In relation to the complaint that Cllr 12 brought the council into disrepute by reason of their support for LTNs. It is certainly true that LTNs have caused a great deal of controversy locally. However, it could not be reasonable for Cllr 12 to be in breach of the Code by reason simply of promoting a policy that is not supported a large number of their constituents, save in the case of a policy that is manifestly dangerous or offensive. Such a policy could not reasonably include a policy (LTNs) that falls within the broad ambit of government guidance.</p> <p>5.In relation to the complaint that Cllr 12 was in breach of the criminal offence provisions of Part 3 of the Code. Section 32 of the Localism Act 2011 specifies the different elements of potential offences under the standards regime. Careful analysis indicated that Cllr 12 could not reasonably be said to have committed a criminal offence under section 32.</p> <p>6.There was no evidence that Cllr 12 was in breach of the requirements relating</p>
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		<p>to disclosable pecuniary interest.</p> <p>7. Section 31 relates to the requirement on councillors that they not take part in any decision making in relation to a matter in which they have a DPI. The complainant has not provided any evidence that Cllr 12 took part in a decision in which they had a DPI in LTNs.</p> <p>8. Article 10 (Freedom of Expression) of the Human Rights Act 1998 was also relevant to this decision. The requirement for councillors to comply with the Code is clearly expressed to be (section 9 of the Code) subject to the Article 10 rights of councillors. Freedom of expression would include the right to express opinions on policy issues of the day – of which LTNs are an example.</p> <p>It would be a breach of Cllr 12's right to free speech to hold them potentially in breach of the Code for arguing on one side of a debate rather than the other</p> <p>Both independent people were consulted.</p> <p>[Date of decision: 07.03.21]</p>
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<p>13</p>	<p>Complaint that Cllr 13 was in breach of the Code of Conduct, in relation to their role on LTNs:</p> <ul style="list-style-type: none"> - Cllr 13 lied to their constituents, by stating that the London Ambulance Service (LAS) had been consulted on the introduction of the LTNs. - The introduction of LTNs without prior consultation with the LAS put the safety of the public at risk - The introduction of LTNs has had a massive and negative affect on public safety <p>[26.09.20: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity Accountability ... Honesty ...</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.In relation to the allegation that Cllr 13 lied in relation to consultation with the London Ambulance Service. Evidence supported the conclusion that Cllr 13 believed that the statement (ie. that LAS had been consulted) was true, at the time when they made it . It was only subsequently that it transpired LAS had not in fact been consulted, due to an administrative error (in the recipient email address) by the officer team.</p> <p>2.Noting that the failure to consult LAS prior to the LTNs coming into effect was due to an administrative error by the council’s officer team, it would not be reasonably possible to conclude that any risk to public safety that resulted from that failure was due to the conduct of Cllr 13.</p> <p>3.The rest of the complaint related to the rationale behind the LTNs project in Ealing borough. (See analysis on complaint (9) above).</p> <p>There was no evidence of improper behaviour by Cllr 13 as an individual, such as to potentially amount to a</p>
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			<p>breach of the Code of Conduct.</p> <p>Both independent people were consulted.</p> <p>[Date of decision: 22.02.21]</p>
14	<p>Complaint that Cllr 14 was in breach of the Code of Conduct, in relation to their role on LTNs, by:</p> <ul style="list-style-type: none"> - actively expressing their support of the pro-LTN case on social media - continually ignoring the requests of their constituents, and continuing to take an antagonistic approach on their social media - not consulting the London Ambulance Service prior to implementing LTN schemes - compromising the consultation process, by supporting the LTN schemes unequivocally <p>[16.11.20: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity ... Objectivity — ... Accountability ... Honesty</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>8. 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>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons:</p> <ol style="list-style-type: none"> 1.In relation to the allegation that Cllr 14 lied in relation to LTNs consultation, see rationale at (13) above. 2.In relation to the complaint that Cllr 14 was in breach of the Code by actively and continually expressing their support for LTNs on social media, despite requests from their constituents to remove them. This could not reasonably be said to be antagonistic to the extent of putting Cllr 14 in breach of the Code. 3.In relation to the complaint that Cllr 14 was in breach of the Code by reason of (allegedly) having compromised the consultation process by expressing their unequivocal support for LTNS, see the rationale at complaint (12) above. 4.Human Rights issues (freedom of expression) were relevant.

			Both independent people were consulted. [Date of decision: 03.03.21]
15	<p>Complaint that Cllr 15 was in breach of the Code of Conduct, in relation to their role on LTNs, by:</p> <ul style="list-style-type: none"> - determining that LTNs should continue, despite overwhelming opposition from the public - determining that LTNs should continue, despite overwhelming opposition from the public and in the face of a statement by some councillors that they would support the removal of the LTNs if representative consultation outcomes indicated that they should be removed - in promoting LTNs, serving their personal benefit and advantage (ie. as a cyclist) rather than the public interest - demonstrating a lack of integrity, and placing themselves in a situation where their integrity was questioned, by going against the views of their fellow councillors, residents, and constituents - failing to be open about their actions and decision making, despite requests from constituents, by failing to give reasons for actions 	<p>3.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 ... Accountability ... Honesty.</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>8. 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>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons:</p> <ol style="list-style-type: none"> 1. The decision was taken (officer decision of 8th February 2021) to make new Experimental Traffic Orders (ETOs) in a number of locations. This does not support the premise that Cllr 15 has determined that LTNs should continue. 2.In relation to the complaint that Cllr 15, in promoting LTNs, served their own personal benefit and advantage rather than the public interest. There was no evidence to support the allegation that Cllr 15 has derived personal benefit or advantage from LTNs. 3.It was clear that Cllr 15 was a strong advocate for LTNs. However, it could not reasonably be a breach of the Code for Cllr 15 to express their opinions on this issue. 4.There was no evidence to support the allegation that Cllr 15 had influenced the council to give unreasonable or improper

	<p>- by the actions above, failing to follow the principles of good leadership, bringing their office into disrepute, and failing to demonstrate impartiality</p> <p>- committing a criminal offence, by reason of breaching Part 3 of the Code</p> <p>[22.12.20: complaint by member of the public]</p>		<p>weight to one set of arguments over another.</p> <p>5. In relation to the complaint that Cllr 15 demonstrated a lack of integrity and placed themselves in a situation where their integrity was questioned, by going against the views of their fellow councillors, residents and constituents. It could not be correct that Cllr 15 would be in breach of the Code (and show a lack of integrity) if they were to make an argument that is not the same as a majority of their constituents.</p> <p>6. In relation to the complaint that Cllr 15 was in breach of the Code by failing to be open about their actions and decision making, despite requests from constituents, by failing to give reasons for their actions. Various published reports include clear rationale.</p> <p>7. The issues of a potential criminal offence are dealt with at complaint (12) above.</p> <p>Cllr 15's DPIs are published on Ealing Council's website. The complainant did not provide any evidence of a DPI that Cllr 15 had but which was not registered.</p> <p>8. Similarly, no evidence was provided that Cllr 15 took part in a decision in which they had a DPI.</p>
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			<p>9. Human Rights issues (freedom of expression) were relevant.</p> <p>Both independent people were consulted.</p> <p>[Date of decision: 03.03.21]</p>
16	<p>Complaint that Cllr 16 was in breach of the Code of Conduct, in relation to their role on LTNs, by:</p> <ul style="list-style-type: none"> - actively posting on social media their support of the pro-LTN case, in circumstances where their role required that they be objective and independent - by actively supporting LTNs, failing to be accountable, open, or honest, and failing to promote the principles of the Code by leadership - by supporting LTNs in the circumstances above, bringing their office and the council into disrepute - by supporting LTNs, compromising the impartiality of those who work for or on behalf of the council - by supporting LTNs, committing a criminal offence, by reason of breaching Part 3 of the Code - by supporting LTNs, failing to demonstrate the impartiality and independence required <p>[22.11.20: complaint by member of the public]</p>	<p>3. You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity ... Objectivity – ... Accountability ... Honesty ... Leadership –</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>8. 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>PART 3 – INTERESTS Pecuniary interests and registration – disclosure of pecuniary interests – Gifts and Hospitality</p> <p>8. The requirement to comply with the provisions of this Code is subject to rights of councillors under the</p>	<p>That the complaint <u>not</u> be referred for investigation.</p> <p>Reasons:</p> <p>1. At the heart of the complaint is the implication that Cllr 16 should not express any opinions on either side of the LTNs argument, in advance of a meeting where the issue was discussed. However, the law is clear that such a restriction does not exist. (Section 25 of the Localism Act 2011)</p> <p>2. Section 25 makes it clear that Cllr 15's actions in tweeting their support of LTNs could not legally be taken as implying that they would have a closed mind in relation to the subsequent consideration of LTNs, by OSC or elsewhere.</p> <p>3. The law does not support that scrutiny members are subject to different and stricter rules, in relation to their ability to express views on an issue before it comes before scrutiny for consideration, as above.</p>

		Human Rights Act 1998, in particular Article 10 (Freedom of Expression)	<p>4.The issues of a potential criminal offence are dealt with at complaint (12) above. Cllr 15's DPIs are published on Ealing Council's website. The complainant did not provide any evidence of a DPI that Cllr 16 had but which was not registered.</p> <p>5.No evidence was provided that Cllr 16 took part in a decision in which they had a DPI.</p> <p>6. Human Rights issues (freedom of expression) were relevant.</p> <p>Both independent people were consulted.</p> <p>[Date of decision: 07.03.21]</p>
17	<p>Complaint that Cllr 17 was in breach of the Code of Conduct, in relation to their role on LTNs, by posting an image of a vegetable on social media.</p> <p>This image was felt by the complainant to be racist, by reason of its similarity to a post of a councillor from another authority.</p> <p>[12.12.20: complaint by member of the public]</p>	<p>3.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 ... Accountability ... Honesty.</p> <p>4.You must not conduct yourself in a manner which could reasonably be regarded as bringing</p>	<p>The decision has not yet been taken on whether to refer for investigation.</p> <p>Both independent people were consulted.</p>

		<p>your office or the council into disrepute</p> <p>8. 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>	
18	<p>Complaint that Cllr 18 was in breach of the Code of Conduct, in relation to their role on LTNs, by lying in relation to aspects of the design of LTNs and the involvement of the London Fire Brigade in relation to that design.</p> <p>[01.03.21: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity ... Objectivity — ... Accountability ... Honesty ... Leadership –</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>No decision has yet been taken on whether to refer this complaint for investigation.</p> <p>Both independent people have been consulted.</p>
19	<p>Complaint that Cllr 19 was in breach of the Code of Conduct, by being some distance from their home during lockdown, as evidenced by a location stamp on a tweet.</p> <p>[17.01.21: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... Integrity...</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>Informal resolution is being pursued.</p> <p>Cllr 19 explained that their actions were fully COVID compliant.</p> <p>Cllr 19 was also not on council business, so the Code would not apply in any event.</p> <p>The independent people were not consulted.</p>

20	<p>Complaint that Cllr 20 was in breach of the Code of Conduct, by sending a social media post that the complainant considered to be racist.</p> <p>[23.02.21: complaint by member of the public]</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>5.You must treat others with respect</p> <p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <i>Accountability</i> ... <i>Leadership</i> ..</p>	<p>No decision has yet been taken on whether to refer this complaint for investigation.</p> <p>Both independent people have been consulted.</p>
21	<p>Complaint that Cllr 21 was in breach of the Code of Conduct, by raising in a Planning Committee meeting issues that the complainant considered private.</p> <p>[05.01.21: complaint by member of the public]</p>	<p>3.You must maintain a high standard of conduct and comply with the following general principles of conduct: ... <i>Integrity</i>... <i>Accountability</i> ... <i>Leadership</i></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>Informal resolution is being pursued.</p> <p>Cllr 20 has explained that it was not them who raised the issue in the committee meeting.</p> <p>The independent people were not consulted.</p>

Appendix 2: New Procedure for dealing with Standards Complaints

Ealing Council Standards Procedure

This procedure is supplementary to the Ealing Code of Conduct for Members

1 General

- 1.1 The legal obligations upon the Council are limited to “arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made...must include provision for the appointment by the authority of at least one independent person”
- 1.2 The term “member” is defined within the Code
- 1.3 The council’s Monitoring Officer is the Director of Legal and Democratic Services (“DLDS”) and is the officer with statutory responsibility for maintaining the register of members interest and for administrating the system in respect of members complaints
- 1.4 “Code” means the council’s Code of Conduct for Members, incorporating any ancillary documents
- 1.5 “complainant” means the person making a complainant about a member
- 1.6 “complainee” means the member about who the complaint has been made
- 1.7 Any members involved in deciding whether a complaint should be investigated will not automatically be later barred as a result of bias from dealing with any subsequent hearing
- 1.8 “independent person” means the person or people appointed by the council to fulfil the purpose of independent person, as required by the Localism Act 2011
- 1.9 “investigator” means an investigator appointed by the DLDS pursuant to 4.1 below
- 1.10 “relevant whip” means the whip of the political group (if any) to which the complainee belongs

2 Receipt of complaints

- 2.1 All complaints against a Member are to be directed to the DLDS and must be in writing
- 2.2 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
- 2.3 Complainants should give full particulars of their complaint
- 2.4 All complaints must be against a current member who was also a member at the time of the alleged breach
- 2.5 Complaints must normally state which part of the Code it is alleged has been breached, although the DLDS may waive this requirement in exceptional circumstances, for example where the complainant cannot reasonably be expected to understand the Code in detail
- 2.6 The DLDS will aim to acknowledge all complaints in writing within five working days and inform the complainee that a complaint has been made against them. The DLDS will normally send a copy of the complaint to the complainee at this stage, save in exceptional circumstances where the DLDS considers that this will not be appropriate
- 2.7 The complainant may withdraw a complaint at any point prior to final determination of that complaint

3 Dealing with complaints

- 3.1 The DLDS shall determine whether a complaint requires investigation or, in his or her discretion, refer the decision to the complaint to the Standards Assessment Panel. The DLDS shall aim to take his or her decision under this section 3.1 within fifteen working days of receipt of the complaint, unless informal resolution is being attempted pursuant to 3.3 below or further clarification or referral is required pursuant to 3.4 below – in which case the time period for decision will not apply. The DLDS may (in his or her discretion) consult with an independent person prior to making any decision under the section
- 3.2 Where a complaint has been referred to it under (3.1) above, the determination of whether or not a complaint requires investigation shall be made by the Standards Assessment Panel. The Standards Assessment Panel shall normally take its decision under this section 3.2 within twenty working days of referral to it of a complaint by the DLDS
- 3.3 The DLDS may, in his or her discretion, seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation or referring it to the Standards Committee
- 3.4 In making any decision under 3.1 – 3.3 above the DLDS /Standards Assessment Panel may take whatever matters into account they consider pertinent, including information provided by the complainant, the complainee, or otherwise available to the DLDS / Standards Assessment Panel
- 3.5 The initial assessment criteria include:
 - 3.5.1 does the complaint disclose a potential breach of the Code, which is sufficiently serious to merit a full investigation?
 - 3.5.2 the likely adverse impact on any third party
 - 3.5.3 the likely impact upon the reputation of the council;
 - 3.5.4 is the period since the alleged behaviour took place so significant that it would be inequitable, unreasonable or otherwise not in the public interest to investigate it?
 - 3.5.5 does the complaint appear to be vexatious, frivolous, or malicious?
 - 3.5.6 does the complaint disclose such a minor or technical breach of the Code that it is not in the public interest to pursue?
 - 3.5.7 whether the complainant or complainee was unreasonable in not agreeing to or co-operating with attempts resolve the complaint informally
 - 3.5.8 is the complaint the same or substantially the same as a complaint previously dealt with?
 - 3.5.9 has the complainee remedied or made reasonable endeavours to remedy the matter?
- 3.6 The DLDS may contact the complainant or complainee to seek further information from them or clarification of any points made in the complaint. The DLDS may also decline to progress the matter should he or she consider that it should be referred to the Police
- 3.7 The DLDS will advise the complainee of the existence and role of the independent persons, including the ability of the complainee to consult with an independent person
- 3.8 The DLDS will inform the complainee and the relevant whip that a complaint has been made against the complainee and the nature of that complaint

- 3.9 The DLDS will, within ten working days of the decision, inform the complainant, the complainee and the relevant whip of the outcome of any determination under 3.1 or 3.2 above, giving reasons for that determination
- 3.10 In the event that the Standards Assessment Panel decides that a complaint does not require investigation then the complainant shall have no right of appeal against this decision
- 3.11 In the event that the DLDS decides that a complaint does not require investigation then the complainant shall have a right of appeal against this decision via the council's generic complaints procedure. (See [this link](#)).

4 Investigation of complaints

- 4.1 Should the DLDS or the Standards Assessment Panel consider (pursuant to 3.1 or 3.2 above) that a complaint requires investigation then the DLDS will appoint an investigator to investigate it and prepare a report, save where the DLDS determines that no investigation is required - in which case the complaint will proceed straight to the hearing stage (see 6 below) with no investigator's report
- 4.2 The investigator will decide how to carry out the investigation but this is likely to include interviewing the complainant, the complainee and relevant third parties and seeking to examine relevant documentation. At the end of the investigation the investigator will send a draft of their report to the parties for comment before submitting a revised version to the DLDS. If the DLDS is not satisfied that the investigation has been conducted properly he or she may ask the Investigating Officer to reconsider his/her report before a final version is produced by the investigator
- 4.3 The investigator will aim to complete their investigation and report as quickly as possible. However, the investigator's priorities will be to be fair, accurate, and thorough. The investigator's report will normally attach or clearly reference all evidence taken into account.

5 Where the investigator finds no breach of the Code: Standards Assessment Panel meeting

- 5.1 Where the investigator concludes that there has been no breach of the Code, the report shall be referred to the Standards Assessment Panel for determination as to whether or not the Panel agrees with the investigator's finding. That meeting shall be held as soon as possible after the investigator produces his / her final report, but no earlier than fifteen working days after a copy of the final version report has been sent to the complainant and the complainee
- 5.2 The complainant and the complainee shall be entitled to attend the meeting of the Standards Assessment Panel pursuant to 5.1 above, and to make oral representations to that meeting, provided that a written summary of those representations has been provided to the DLDS at least seven working days prior to the date of the Panel meeting
- 5.3 Neither the complainant or the complainee shall be entitled to give evidence to the meeting of the Standards Assessment Panel pursuant to 5.1 above. The meeting will look only at the report and its conclusions and not accept any additional evidence.

- 5.4 Where the Standards Assessment Panel agrees with the investigator's conclusion that there has been no breach of the Code, the complaint will be dismissed at that stage and there shall be no appeal against that decision
- 5.5 The DLDS shall notify the complainant and the complaine e of the decision of the Standards Assessment Panel within five working days of that decision
- 5.6 Where the Standards Assessment Panel disagree with the investigator's conclusion that there has been no breach of the Code, the matter shall be referred to full Standards Committee for a hearing, following the procedure in (6) below.

6 Where the investigator finds a breach of the Code : Standards Committee hearing

- 6.1 Where the investigator concludes that a breach of the Code has taken place, the complaint will be referred to the Standards Committee for determination at a formal hearing
- 6.2 That hearing shall be held as soon as possible after the investigator produces his / her final report, but no earlier than twenty working days after a copy of the final version report has been sent to the complainant and the complaine e
- 6.3 The complainant and the complaine e will be entitled to attend the Standards Committee hearing
- 6.4 At least one independent person shall attend the hearing
- 6.5 The complainant and the investigator and the complaine e will, at the discretion of the committee, be entitled to give evidence at the Standards Committee hearing, provided that no later than seven working days prior to the date of the meeting they:
 - 6.5.1 Submit to the DLDS any documents they wish the Committee to have before them
 - 6.5.2 Indicate whether they wish any witnesses to attend and give their identity and a statement of the detailed issues upon which each witness will be invited to give evidence
- 6.6 Where there is more than one complainant, it will normally only be appropriate for one person to give evidence, unless other complainants are giving evidence on clearly different and distinct points that could not reasonably have been dealt with by one of the complainants.
- 6.7 On the basis of the papers provided, the Committee shall in their discretion decide which witnesses they wish to hear.
- 6.8 At any point the Committee may inform any witness or person addressing the hearing that they consider that they have heard all they need to hear from that person or witness
- 6.9 The Committee shall, when hearing the evidence, endeavour to take an approach that is reasonable and proportionate to the seriousness of the subject matter of the complaint and its impacts.
- 6.10 The complaine e may, at their own expense, be represented at the Standards Committee hearing by no more than one lawyer or (with the consent of the DLDS) any other person. The Committee can at any time withdraw permission to allow representation should that person become (in the Committee's opinion) disruptive or obstructive
- 6.11 The Standards Committee hearing will be held in private unless the balance of public interest favours meeting in public

- 6.12 If the complainee fails to attend the Standards Committee hearing the Committee may either consider the matter or adjourn the hearing to another date
- 6.13 At any point the Committee may adjourn and require the DLDS to seek further information or undertake further investigation on any points specified by it
- 6.14 The process of the hearing will be a matter for the Committee to decide depending on the facts but it likely to include:
- 6.14.1 the Chair setting the scene
 - 6.14.2 the DLDS explaining the process
 - 6.14.3 representations by or on behalf of the investigator, complainee, complainant, and any other witnesses that the committee agree to hear
 - 6.14.4 questions by committee members to any of the people listed at 6.12.3
- 6.15 The Committee will then consult an Independent Person. This may be in private or open session, at the discretion of the Committee

7 Outcomes of the Standards Committee hearing

- 7.1 When the hearing resumes the facts and the committee's finding as to whether or not they consider that the Code of Conduct has been breached will be given to such of the complainant, the complainee and the investigator who are present at the hearing
- 7.2 Should the Committee consider that the Code has been breached they will invite the complainee to make representations to the committee hearing with regard to possible sanctions
- 7.3 The committee may retire to consider the representations
- 7.4 The committee will then announce their decision which will be captured in the minutes of the meeting and in a formal letter to be sent within ten working days following the hearing to the complainant and the complainee
- 7.5 Where the committee finds a failure to comply with the Code of Conduct, the Standards Committee may recommend one or more of the following actions:
- 7.5.1 No further action
 - 7.5.2 That the complainee apologise in writing to the complainant (whilst noting that the complainee cannot legally be compelled to do so)
 - 7.5.3 That a letter be sent to the complainee informing them of the findings and requesting that the complainee does not repeat the course of action that led to the finding
 - 7.5.4 Formally censuring the complainee
 - 7.5.5 Recommendation to full council that full council formally censure the complainee
 - 7.5.6 Report to full council of its findings, for information only
 - 7.5.7 Recommendation to the complainee's political group leader (if the complainee is a member of a political group) that a proposal be taken to full council to the effect that the complainee be removed from specified Committees or Sub-Committees of the Council
 - 7.5.8 Recommendation to the Leader of the Council that the complainee be removed from the Cabinet

- 7.5.9 Instruction to the DLDS to arrange training for the complainee (noting that there is no legal obligation upon a complainee to undertake or co-operate in any training request)
- 7.5.10 Issuing a press release in the name of the Chair of the Committee detailing the case and the findings, and / or
- 7.5.11 Make general recommendations as to conduct of all members
- 7.6 In considering what if any sanctions to impose the Committee will consider amongst other things:
 - 7.6.1 What was the complainee's intention? Did he/she know they were failing to follow the Code of Conduct?
 - 7.6.2 Did the complainee seek advice or obtain from officers before the incident? Was that advice acted on or ignored in good faith?
 - 7.6.3 Has there been a breach of trust?
 - 7.6.4 Has there been financial impropriety?
 - 7.6.5 What was the result of failing to follow the Code of Conduct?
 - 7.6.6 How serious was the incident?
 - 7.6.7 Does the complainee accept they were at fault?
 - 7.6.8 Did the complainee apologise to those adversely affected by their actions?
 - 7.6.9 Has the complainee failed to follow the Code before?
 - 7.6.10 Is the Member likely to agree to any suggestion of training or apology?

8 Appeal against the decisions under this procedure

There is no appeals mechanism against decisions taken as above other than via the Courts and (subject to them accepting jurisdiction) the Local Government Ombudsman.

9 Role of the independent person

- 9.1 The Localism Act 2011 requires that the council appoints “.. at least one independent person (a) whose views are to be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and (b) whose views may be sought by the authority in relation to an allegation in circumstances not within (a) , by a member if that persons behaviour is the subject of an allegation ..”
- 9.2 The functions of the independent person(s) in Ealing are –
 - 9.2.1 One of them must be consulted by the Standards Committee before it makes a finding as to whether a complainee has failed to comply with the Code or decides on action to be taken in respect of that complainee
 - 9.2.2 One of them may be consulted by the Standards Committee in respect of a standards complaint at any other stage; and
 - 9.2.3 One of them may be consulted by a complainee
- 9.3 Ealing will seek to appoint two independent persons
- 9.4 The role of the independent person is different to the role of any co-opted non-voting member of the Standards Committee who may be appointed.

10 Reporting

The DLDS will make regular reports to the Standards Committee on complaints received and how these are dealt with, including complaints which are resolved informally and complaints which are not referred on for investigation or hearing

11 Confidentiality

Complaints which are referred to the DLDS but are not investigated will, subject to the procedure set out above and rights of Data Protection and Freedom of Information rules, be treated as confidential by him or her