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| Report for: ACTION/INFORMATION |
| Item Number: |

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| Contains Confidential or Exempt Information | NO |
| Title | Standards Committee annual review 2017/18 |
| 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 | 24 th April 2018 |
| Implementation Date if Not Called In | Not applicable |
| Affected Wards | None |
| Keywords/Index | Standards Committee annual review 2017 / 18 |

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 Standards Committee and its independent people during the past year, and
- 1.2 Agrees that the Standards Committee should continue as a separate committee

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. The implementation of the standards regime in individual councils is no longer monitored nationally.
- 2.2 Chapter 7 of part 1 of the Localism Act 2011, which came into effect fully on 1st July 2012, completely changed the council's duties and the requirements placed upon it with regard to standards issues. Ealing Council has now had almost six years' experience of working with this statutory structure. In Ealing the 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. This is reflected by the fact that of the eight formal complaints made against Ealing Councillors during the 2017 – 18 municipal year (up until the date of submission of this report) only two merited referral for investigation.
- 2.3 All Ealing councillors have been trained 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. A draft training programme has been drawn up in preparation for the new May 2018 “intake”, and the party whips have been consulted upon it.

3. Key Implications

3.1 The Standards Committee now only meets once a year, in the absence of complaints requiring committee consideration. This arrangement works well, and reflects the fact that Ealing councillors are both fully trained on their responsibilities and 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 these additional dates were used.

3.2 The following substantive items were on the agenda for the one Standards Committee meeting of the 2017 / 18 municipal year:

| | Name of report | Meeting date |
|----------|--|--|
| 1 | Annual review of the whistle blowing policy | Annual meeting (22 nd March 2018) |
| 2 | Annual review on the operation of the freedom of information service | Annual meeting (22 nd March 2018) |
| 3 | Annual review | Annual meeting (22 nd March 2018) |

3.3 There were eight new complaints during this municipal year – although a number of those complaints arose from related or the same incidents. There are currently two related complaints being investigated by an investigating officer appointed by the Director of Legal and Democratic Services under the adopted Standards Complaints Procedure. No complaints were considered sufficiently serious to ask the Standards Assessment Panel to make the decision on whether or not to refer them for investigation. It has not – yet – been necessary to convene Standards Committee to determine any complaint hearings during the current municipal year.

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|---|---|---|--|
| 1 | Allegation that Cllr 1 gave a talk to a ward forum on an area of work in which Cllr 1 themselves did business. Alleges that Cllr 1 had acted improperly in failing to declare that they had a conflict of interest in the issue. The complainant also alleged that Cllr 1 owned | Not specified | DLDS took the decision to <u>not</u> refer the complaint for investigation. Reasons: That, taking account of the information given in the complaint, if the allegations were true (noting that no investigation was carried out into the truth of them or otherwise) no breach of the Code would appear to have taken place. Specifically: - The ward forum meeting was not taking any substantive decision impacting on a particular property interest of Cllr 1, therefore it is difficult to see how there can be any conflict of interest |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|---|---|---|---|
| | <p>a number of properties that should have been registered as houses in multiple occupation but were not. Finally, the complainant alleged that those properties should have been but were not disclosed in Cllr 1's declaration of interests.</p> <p>[24.10.2017: complaint by member of the public]</p> | | <p>for Cllr 1 to give a presentation to the meeting about an issue of which Cllr 1 had a specific knowledge because of that property interest</p> <ul style="list-style-type: none"> - Cllr 1 had declared their ownership of properties in the borough, in accordance with the requirements of the Localism Act 2011. However, full detail of these properties are not shown on the public register because they have been adjudged "sensitive" in accordance with section 32 of the Localism Act. <p>The two independent people were consulted and both agreed with the view of the DLDS.</p> <p>[Date of DLDS decision: 04.12.2017]</p> |
| <i>Note that complaints 2, 3, 4 and 5 below were made by the same complainant</i> | | | |
| 2 | <p>Allegation that Cllr. 2 stated that they had put in a public application in regard to a planning application which they did not. The complainant wanted to understand why.</p> <p>[11.10.2017: complaint by member of the public]</p> | Not specified. | <p>DLDS took the decision to <u>not</u> refer the complaint for investigation.</p> <p>Reasons:</p> <p>That, taking account of the information given in the complaint and other information as set out below, no breach of the Councillors' Code of Conduct would appear to have taken place. Specifically:</p> <ul style="list-style-type: none"> - Failure to submit an objection to a planning application when requested to do so would not amount to a potential breach of the code of conduct - A statement by a councillor that they had done something when in fact they had not might potentially be a breach of the code of conduct. However, Cllr 2 produced copies of emails sent by Cllr 2 to the chair of the Planning Committee and Borough Planner requesting that the application be determined by Planning Committee (rather than by officers under delegated powers) and reserved Cllr 2's right to speak against the application on policy grounds set out briefly in that email. - Planning Committee minutes confirmed that Cllr 2 attended the meeting and spoke against the application in question. <p>In the circumstances set out above, it was clear that no breach of the Code had taken place and accordingly that a referral for investigation could not be justified.</p> |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|---|---|---|---|
| | | | Both independent people were consulted. [Date of DLDS decision: 03.01.2018] |
| 3 | Allegation that Cllr 3 had failed to respond to correspondence regarding a planning application objection. [21.10.2017: complaint by member of the public] | Not specified. | DLDS took the decision to <u>not</u> refer the complaint for investigation. Reasons: That, taking account of the information given in the complaint, no breach of the Code would appear to have taken place. Specifically, failure to respond to correspondence would be an example of less than ideal behaviour by a councillor but it would not normally amount to a potential breach of the code of conduct. In these circumstances, a full investigation cannot be justified. The two independent people were consulted and both agreed with the view of the DLDS. [Date of DLDS decision: 01.12.2017] |
| 4 | Allegation that Cllr 4 had failed to respond to correspondence regarding a planning application objection. [21.10.2017: complaint by member of the public] | Not specified. | DLDS took the decision to <u>not</u> refer the complaint for investigation. Reasons: That, taking account of the information given in the complaint, no breach of the Code would appear to have taken place. Specifically, failure to respond to correspondence would be an example of less than ideal behaviour by a councillor but it would not normally amount to a potential breach of the code of conduct. In these circumstances, a full investigation cannot be justified. The two independent people were consulted and both agreed with the view of the DLDS. [Date of DLDS decision: 01.12.2017] |
| 5 | Allegation that Cllr 5 had failed to respond to correspondence regarding a planning application objection. [21.10.2017: complaint by member of the public] | Not specified | No determination was made as the complainant never responded to an enquiry as to whether or not they wished to make a formal complaint about Cllr 5. This was not clear, as Cllr 5 was only mentioned in passing in the formal complaint about Cllrs 3 and 4 above. |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|--|--|--|---|
| <i>Note that complaints 6, 7 and 8 were all made about the same councillor in relation to the same Planning Committee site visit</i> | | | |
| 6 | <p>Allegation that Cllr 6 stated very clearly that they were always in favour of development and multi occupancy dwellings, unless there are serious exceptions. A further allegation that Cllr 6 has made comments on recent developments, and displayed a flippant attitude towards the concerns of residents, and should therefore not be allowed to continue as a member of Planning Committee or Licensing Committee.</p> <p>[25.10.2017: Complaint by member of the public, who also in the same email made complaint (1) above]</p> | Not specified | <p>DLDS took the decision to <u>not</u> refer the complaint for investigation.</p> <p>Reasons: That, if the allegations are true (noting that no investigation has been carried out into the truth of them or otherwise), no breach of the Code would appear to have taken place. Specifically:</p> <p>(1) The statutory position, namely section 25(2) of Localism Act 2011, does not support the allegation that Cllr 6 is unsuitable to be a member of either Planning Committee or Licensing Committee:</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— (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</p> <p>This statutory provision is reproduced in the council's Code of Conduct for Members in Relation to Planning Matters.</p> <p>(2) The council's Code of Conduct for Councillors includes the following provisions: <i>4. You must not conduct yourself in manner which could reasonably be regarded as bringing your office or the council into disrepute</i> <i>5. (1) You must treat others with respect</i> The complainant has not given any specifics of behaviour by Cllr 6 that indicate that the councillor may be in breach of these two provisions; an unsubstantiated allegation of a "flippant attitude" is not in itself sufficient to justify a full investigation into whether a breach of either or both of these provisions of the Code of Conduct may have taken place.</p> <p>(3) Paragraph 12 of the council's Code of Conduct for Members in Relation to Planning Matters states that: <i>12. If you have business or other interests bringing you into frequent contact with the</i></p> |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|---|--|---|---|
| | | | <p><i>planning system locally you should avoid membership of the Planning Committees. Such interests might include you acting as a planning agent or other consultant in respect of planning applications within the borough.</i></p> <p>The complainant has not made any assertions of fact or produced any evidence that might reasonably be said to support the assertion that Cllr 6 may be in breach of this provision of the Planning Code. Unsubstantiated allegations, that Cllr 6 is a property developer and always in favour of development unless there are serious exceptions, are not enough in themselves adequate to justify a full investigation into whether or not a breach of this provision of the Planning Code may have taken place.</p> <p>The two independent people were consulted.</p> <p>[Date of DLDS decision: 26.01.2018]</p> |
| 7 | <p>Allegation that Cllr 6 in the course of a Planning Committee site visit made comments to another councillor, that the developers would win in the end as they would also win for the adjoining property in which was still under consideration by officers. The complainant alleged that by making this comment Cllr 6 was pre-empting their decision at Planning Committee and should not have continued to take part in the decision-making process or to be a member of Planning Committee.</p> <p>[11.11.2017: complaint by member of the public]</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>DLDS took the decision to refer some aspects of the complaint for investigation but not to refer others. Reasons:</p> <p>That, if the allegations are true (noting that no investigation has been carried out into the truth of them or otherwise), a breach of some elements of the Code of Conduct may have taken place, but it is clear that other elements were not breached. Specifically:</p> <p>(1) The council's Code of Conduct for Councillors includes the following provisions:</p> <p><i>4. You must not conduct yourself in manner which could reasonably be regarded as bringing your office or the council into disrepute</i></p> <p><i>5. (1) You must treat others with respect</i></p> <p>The information given by the complainant, whilst it has not yet been investigated, suggests that the manner in which Cllr 6 conducted themselves and that comments they made at the site visit may potentially have constituted a breach of one or both of these provisions.</p> <p>(2) Section 25(2) of Localism Act 2011, which is reproduced in the council's Code of Conduct for Members in Relation to Planning Matters, reads as follows:</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> |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|---|--|---|---|
| | | | <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 relation to a matter, and (b) the matter was relevant to the decision</p> <p>There was no reasonable justification for the investigation to cover the issue of whether or not Cllr 6 pre-empted their decision and therefore whether or not they should have continued to take part in the Planning Committee decision. The investigation, which is still underway, relates only to potential breach of the provisions of the Code relating to potentially bringing the council into disrepute and treating others with respect.</p> <p>The two independent people were consulted.</p> <p>[Date of DLDS decision: 26.01.2018]</p> |
| 8 | <p>Allegation that Cllr 6 in the course of a Planning Committee site visit made comments to another councillor, that the developers would win approval for their development even if it were objected to now. The complainant considers that Cllr 6's main thrust was that refusing the applications would simply incur more costs for the Council as the developers would resubmit their requests time and again so there was no point in anyone objecting.</p> <p>The complainant was shocked as he believes that Cllr 6 had made a comment when they attended a previous Planning Committee visit to the effect that they did not care what the local residents thought about any planning applications, and that</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>DLDS took the decision to refer some aspects of the complaint for investigation but not to refer others.</p> <p>Reasons: That, if the allegations are true (noting that no investigation has been carried out into the truth of them or otherwise), a breach of some elements of the Code of Conduct may have taken place, but it is clear that other elements were not breached. Specifically:</p> <p>(3) The council's Code of Conduct for Councillors includes the following provisions: <i>4. You must not conduct yourself in manner which could reasonably be regarded as bringing your office or the council into disrepute</i> <i>5. (1) You must treat others with respect</i></p> <p>The information given by the complainant, whilst it has not yet been investigated, suggests that the manner in which Cllr 6 conducted themselves and that comments they made at the site visit may potentially have constituted a breach of one or both of these provisions.</p> <p>(4) Section 25(2) of Localism Act 2011, which is reproduced in the council's Code of Conduct for Members in Relation to Planning Matters, reads as follows:</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> |

| | Complaint | Section of code alleged to be breached | Outcome / current status |
|--|--|---|--|
| | <p>these views didn't matter. The complainant considers that if Cllr 6 is not prepared to listen to different points of view why are they in a position to make decisions that affect people's lives?</p> <p>The complainant is concerned as to whether Cllr 6 ought to be and should continue to be a member of the Planning Committee</p> <p>[11.11.2017: complaint by member of the public]</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 relation to a matter, and (b) the matter was relevant to the decision</p> <p>There was no reasonable justification for the investigation to cover the issue of whether or not Cllr 6 pre-empted their decision and therefore whether or not they should have continued to take part in the Planning Committee decision. The investigation, which is still underway, relates only to potential breach of the provisions of the Code relating to potentially bringing the council into disrepute and treating others with respect.</p> <p>The two independent people were consulted.</p> <p>[Date of DLDS decision: 26.01.2018]</p> |

- 3.4 The fact that there were relatively few complaints made during the last year is again a reflection of the high standards of conduct amongst Ealing councillors. This reflects the work of the Standards Committee, and also the proactive work that continues to be carried out behind the scenes by the party whips and DLDS. There is no indication that the current excellent standards of conduct and low numbers of complaints will not continue, although it will be important to ensure that all councillors are trained on standards issues following the local elections in May.
- 3.5 It is difficult to discern any trend within the complaints received this year, beyond the fact that the majority arise from planning-related issues. Also, several the complaints were linked to each other.
- 3.6 Fewer informal complaints have been received from officers this year, perhaps reflecting the fact that all councillors have now had some years' experience of their duties and responsibilities. These were, as usual, dealt with by the DLDS during the year. These informal complaints fall into the following categories:
- Suggestions for how councillor behaviour in public meetings could be changed to achieve better outcomes and to improve perceptions of the council and its councillors
 - Requests that councillors address service queries to senior officers rather than approaching junior officers at their desks
 - Concerns expressed by officers about potential conflicts of interest
 - Concern about potentially bullying behaviour by a councillor towards a junior officer
- These were all dealt with by discussion between the DLDS and the councillor concerned, with the appropriate party whip kept informed.

3.7 A further success has been the continuing absence of complaints by councillors of one party political group against a councillor of another group.

The independent people

3.8 The Standards Committee has continued to receive excellent support throughout the municipal year from the independent chair of the committee and from the two independent people. The term of office of both independent people came to an end in June 2017 and Mr Michael Budd chose not to reapply at the end of his term of office. Ms Oumou Sall did reapply and was again successful in a competitive interview and so reappointed by full council at its [meeting on 10th October 2017](#). A completely new independent person – Ms Wendy Jones – was also appointed at the same meeting, again following competitive interview.

The independent chair

3.9 The Standards Committee chair is independent of the council and not a councillor. The independent chair is not entitled to vote but provides independent guidance and assurance. The legal requirement that the committee has an independent chair was removed in 2012, via the Localism Act reforms. However, the independent chair system has served Ealing well and each time it has been last reviewed by the Standards Committee (most recently at the 22nd March meeting this year) members were unanimous in their view that it should continue.

3.10 The current independent chair is Mr John Beastall, who also chaired the committee under the statutory provisions that applied before the Localism Act reforms. Mr Beastall is an experienced and well-respected chair, and his appointment is confirmed annually by the committee at its first meeting of the municipal year.

3.11 The [scheme of members' allowances](#) provides that the chair of Standards Committee be paid an allowance of £1008 per annum. Mr Beastall has since the date of his appointment chosen not to claim this allowance.

A continuing independent Standards Committee?

3.12 The Localism Act 2011 reforms significantly reduced the potential workload of the Standards Committee. This Act repealed many of the previous standards requirements for councillors, including the requirement to have a Standards Committee, to adopt a prescribed Code of Conduct for Councillors, and to have an independent chair of a standards committee. Suspension and disqualification were removed as potential sanctions. The Act also abolished the Standards Board for England.

3.13 The Localism Act did however place an obligation on the council to promote and maintain high standards of conduct by councillors and co-optees. Although the 2011 Act did not prescribe the form of Code of Conduct that councils must adopt, 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

Ealing Council chose to implement this requirement via a stricter Code of Conduct than is statutorily required. The council also chose to retain a Standards Committee and an independent chair. All councils are required to appoint at least one independent person, and Ealing has appointed two.

3.14 To coincide with the introduction of the Localism Act reforms, the council also adopted a new procedure for standards complaints. This procedure involves the DLDS having an “initial filter” role in relation to complaints. This has reduced the role of the Standards Assessment Panel in particular, and enabled the council to deal with complaints received in a more efficient way, which is in keeping with the reduced officer resources now available to support the work.

3.15 The Standards Committee has the following [functions and responsibilities](#):

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| Standards Committee | <ul style="list-style-type: none"> (i) To promote and maintain high standards of conduct by councillors and co-opted members; (ii) To assist councillors and co-opted members to observe the Local Code of Conduct for Councillors; (iii) To advise the Council on the adoption or revision of the Local Code of Conduct for Councillors; (iv) To monitor the operation of the Local Code of Conduct for Councillors; (v) In some circumstances to grant dispensations to councillors and co-opted members from requirements relating to interests as set out in the Local Code of Conduct for Councillors; (vi) To determine allegations referred to it under the council’s standards procedures, that a member or co-opted member has failed to comply with the Local Code of Conduct for Councillors; (vii) To receive reports on the operation of the Council’s whistle blowing policy; (viii) To monitor, and where necessary advise and make recommendations upon freedom of information issues. (xii) Considering any lawful application made to it, by the holder for the time being of a post, for that post to be exempt from political restriction, and if the application is successful, giving appropriate directions to the Council in relation to the post (ix) Considering, whether in response to an application from any person, or otherwise, whether it is lawful and appropriate to require the Council to add a particular post to the list of politically restricted posts, and, if so, giving |
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| | appropriate directions to the Council in relation to the post |
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3.16 These responsibilities all relate to standards of conduct by members, with the exception of whistleblowing and freedom of information ((vii) and (viii) above).

3.17 The Standards Assessment Panel has the following functions and responsibilities:

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| Standards Assessment Panel | To receive complaints received in accordance with prescribed requirements and alleging that a member or co-opted member has failed to comply with the Council's Local Code of Conduct for Councillors and to determine whether and how such complaints will be taken forward and dealt with. |
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3.18 The figures in the table below demonstrate that the number of complaints have always fluctuated:

| Year | Total number of complaints | Complaints dealt with by Standards Committee |
|--|-----------------------------------|---|
| 2009/10 | 1 | 0 |
| 2010/11 | 4 | 0 |
| 2011/12 | 9 | 1 |
| 2012/13 NB. The Localism Act changes were introduced during this year | 6 | 2 |
| 2013/14 | 12 | 2 |
| 2014/15 | 0 | 0 |
| 2015/16 | 5 | 0 |
| 2016/17 | 3 | 0 |
| 2017/18 | 8 | 0 |

3.19 In response to a reduction in business, the council took the decision in 2016 to retain its Standards Committee and independent chair but reduce the number of fixed annual meetings to one. Provision is made for additional meetings to be held as and when required, in response to any complaints that the committee may be required to deal with.

3.20 The Standards Committee has considered alternative models for delivery of the standards function, and the recommendation of that committee is that a separate Standards Committee should continue.

The council is statutorily required to retain at least one independent standards person in any event.

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.

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 6 Priorities for the Borough

The council's six priorities for the borough are to make Ealing:

- prosperous
- safer
- healthier
- cleaner
- fairer
- accessible

11. Equalities, Human Rights and Community Cohesion

No issues.

12. Staffing/Workforce and Accommodation implications:

Resources to support the committee's 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.

The independent people were consulted in relation to decisions of the DLDS under the Standards Complaints Procedure, as indicated within the table at 3.3 above.

16. Background Information

Localism Act 2011, part 1, chapter 7 (<http://www.legislation.gov.uk/ukpga/2011/20/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

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

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

Standards Committee report 22nd March 2018

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 | | | 22 nd March 2018 | |
| External | | | | |
| Mr John Beastall | Independent chair | Discussion only | | 1.3, 3.10, 3.12-3.18 |

Report History

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| 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 |