

 Brent	Audit and Standards Advisory Committee 7 th February 2023
	Report from: Corporate Director - Governance
Standards Report (including quarterly update on Gifts & Hospitality and mandatory training)	
Wards Affected:	All
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One Appendix A: Gifts & Hospitality Register
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	(1) Debra Norman, Corporate Director, Governance 020 8937 1578 Debra.Norman@brent.gov.uk (2) Bianca Robinson, Senior Constitutional & Governance Lawyer 020 8937 1544 Bianca.Robinson@brent.gov.uk

1.0 Purpose of the Report

- 1.1 The purpose of this report is to update the Audit and Standards Advisory Committee on gifts and hospitality registered by Members, the attendance record for Members in relation to mandatory training sessions. As part of keeping committee members up to date with matter relevant to their responsibility for standards matters a summary of a recent Local Government & Social Care Ombudsman (LGSCO) case on standards is also included.

2.0 Recommendations

- 2.1 That the Committee note the contents of this report.

3.0 Detail

Gifts & Hospitality

- 3.1 Members are required to register gifts and hospitality received in an official capacity worth an estimated value of at least £50. This includes a series of gifts and hospitality from the same person that add up to an estimated value of at least £50 in a municipal year.
- 3.2 Gifts and hospitality received by Members are published on the Council's website and open to inspection at the Brent Civic Centre.
- 3.3 For the third quarter of 2022/23 (Oct – Dec 2022), there have been nine gifts and hospitality recorded as being received, these are set out in further detail in Appendix A, together with the details of the receiving Councillor.
- 3.4 The Committee will recall that hospitality accepted by the Mayor in their civic role are recorded separately and published on the Council's website.

Member Training Attendance

- 3.5 Officers are pleased to report with the exception of Equalities training and Safeguarding Vulnerable Adults all members have completed the mandatory training.
- 3.6 The following relates to the number of Members who have not attended the mandatory training sessions.

Mandatory all Member sessions:

- 2 Members: Cllr Daniel Kennelly and Cllr Jayanti Patel need to attend the Equalities training.
 - 2 Members: Cllr Rita Connelly and Cllr Sonia Shah need to attend the Safeguarding Vulnerable Adults Training.
- 3.7 The Committee will note a new Equality and Diversity officer is now in post. He has arranged for a repeat Equality session to take place on Monday 30.01.23. In fairness, Cllr Kennelly did attempt to join the repeat Equality training session on the 18 November, unfortunately due to poor network quality he was unable to complete the session and consequently is required to complete it on the 30.01.23. A repeat Safeguarding Vulnerable Adults training session has been set for Wednesday, 01.02.23. Both Cllr Rita Connelly and Cllr Sonia Shah have been invited.
- 3.8 The Committee is reminded of the following.
- a) It is a requirement of the Members' Code of Conduct that all members':

“must attend mandatory training sessions on this Code or Members’ standards in general, and in accordance with the Planning Code of Practice and Licensing Code of Practice” para 19.

“must attend Safeguarding, Equalities and Data Protection training provided by the council” para 20.

- b) The schedule for all mandatory sessions was published and approved at the May 2022 Annual Council meeting.
- c) All internal training sessions attended by Members are published on the Council’s Website and on individual Member profile pages.
- d) Currently, there are five mandatory training sessions provided for all Members and five mandatory sessions provided for Committee Members and, where appropriate, co-opted Members. These are set out in Table 1 below.
- e) Mandatory sessions are provided annually and all Committee Members and substitutes are required to attend the relevant session. In addition, all other Members are invited to attend the sessions.

3.9 Table 1

Mandatory Training	Attendee requirement
1) Standards and the Code of Practice	All Members
2) Corporate Parenting & Safeguarding Children	All Members
3) Safeguarding vulnerable adults	All Members
4) Equalities Training	All Members
5) Data Protection Training	All Members
6) Planning	Committee Members only
7) Alcohol and Entertainment Licensing	Committee Members only
8) Scrutiny Induction	Committee Members only
9) Audit & Standards Committee and the Audit & Standards Advisory Committee induction training	Committee Members only
10) Brent Pensions Fund – Approach to responsible investment	Committee Members only

LGSCO & Teignbridge District Council (21 004 645) - The Councillor's Complaint

3.10 Councillor Daws complained that the Council was at fault as it failed to follow due process when investigating him for alleged breaches of its code of conduct for elected councillors. In particular he complained the Council:

- initiated an investigation without receiving any complaint about his conduct which is contrary to the law and its own policy;
- misled him into believing such a complaint had been made;
- did not disclose details of any such complaint as might have been made; and
- did not carry out due diligence of an independent investigator appointed to investigate the complaint.

As a consequence of the above:

- he was unfairly sanctioned with damage to his personal and professional reputation.
- his right to freedom of expression had been breached; and
- he spent unnecessary time and trouble in responding to the investigation and then seeking redress.

Points of interest

3.11 LGSCO decisions do not normally mention the name of any person or include details likely to identify them. They can use someone's name if it is in the public or complainant's interest to do so. In this case they named the complainant because they considered it is in his interest, and he has asked them to do so.

3.12 Their remit does not extend to making decisions on whether a body in jurisdiction has breached the Human Rights Act – this can only be done by the courts. However, they can make decisions about whether a body in jurisdiction has had due regard to an individual's human rights in their treatment of them, as part of our consideration of a complaint.

3.13 They can investigate complaints from locally elected councillors where they allege they have suffered a personal injustice because of actions taken by a body in their jurisdiction. The rationale being, when a councillor makes a complaint of this type, they are not doing so on behalf of the council or another public body, but in their own personal capacity. Further, they are not an employee, governed by a personnel relationship with a council.

3.14 The LGSCO is not an appeal body. This means they do not take a second look at a decision to decide if it was wrong. Instead, their remit is confined to looking at the procedure an organisation followed to make its decision.

3.15 We have compared the findings in respect of process with our own written procedures and our confident these do suffer from the deficiencies found in this case.

The facts

- 3.16 On 1 November 2019 Councillor Daws and Councillor X received an email from the Council's Monitoring Officer. It said: "significant concerns have been raised with me by officers and / or members about your conduct towards them particularly in recent weeks. The conduct appears on the face of it to establish a case for investigation into whether the standards of conduct required of councillors, as set out in the Members' Code of Conduct, have been breached. No formal written complaint has been received by the Monitoring Officer although this was not made clear to the councillors.
- 3.17 The Monitoring Officer then suggested meeting with both councillors to "discuss the above, including the investigations process and how, if it all, it may be possible for you to reasonably resolve at least some of the above concerns". Both Councillors rejected the invitation of a meeting with the Council's Monitoring Officer.
- 3.18 On the same date, 1 November, the Council's Monitoring Officer sent an email to an external consultancy firm whose services include carrying out investigations into alleged breaches of local authority code of conduct schemes. In that email the officer said the Council had not received any formal complaint about either Councillor, but said she had received concerns from Councillors Mr and Mrs Y
- 3.19 On 7 November the Monitoring Officer sent an email to one of the independent persons retained to sit on the Council's Standards Committee. They enclosed a copy of the email of 1 November to Councillor Daws and Councillor X. The covering email said the Council had "provisionally contacted" the consultancy about investigating and enclosed a copy of that email also. There is no record the Independent Person replied.

LGSCO findings

- 3.20 The LGSCO found a series of faults in the Council's processes that led Councillor Daws to become the subject of an investigation into whether he had breached the Council's Code of Conduct. They also found faults in how the investigation subsequently unfolded. The main faults were as follows:
- 1) the wording of the Localism Act 2011 is clear, it states to trigger any investigation of an alleged breach the Council must receive details of that allegation in writing. There was no written complaint about Councillor Daws having breached the Code on 1 November 2019.
 - 2) the Council's email of 1 November 2019 which notified Councillor Daws of a 'complaint' did not provide enough information about alleged breaches of the Code.
 - 3) the Council did not have full records of its consultation with the Independent Person. There was no complete record of that consultation – only what the Monitoring Officer sent to the Independent Person.
 - 4) the Council introduced new allegations into its investigation and at the time of his meeting with the Investigator, the scope of the investigation being conducted into Councillor Daws' actions was unclear.

- 5) the Investigator's report or the discussion of it that followed at committee did not address the implications of their findings in interfering with Councillor Daws' Article 10 rights.

The recommendations

3.21 The LGSCO recommended Teignbridge District Council has a written procedure for officers and any independent investigators asked to consider standards complaints that should include:

- having a record of complaints being made in writing;
- having a clear written record of consultation with an Independent Person to include their response;
- recording when the written complaint has been shared with the councillor complained of, or a clear written record as to the reasons why not;
- ensuring that where an investigation expands to consider further allegations arising during the investigation, it keeps a clear written record of and a record that this has been explained to the councillor complained about; and
- that in all appropriate cases it considers the rights of the councillor complained about to free expression under Article 10 of the Human Rights Act, as part of any investigation report and subsequent committee decision making.

3.22 The LGSCO's website notes that they have made a number of recommendations to improve the council's processes following the investigation, but the council has not yet agreed to accept these. Michael King, Local Government and Social Care Ombudsman, said:

"Local councillors have a key role in scrutinising their authorities' actions, and have an enhanced right of free speech to ask what might at times appear to be uncomfortable questions. Councils need to bear this in mind when deciding what constitutes a breach of their Code of Conduct."

"While both officers and members have a right to be treated with dignity and respect at work, and councils' desire to do more to protect them from poor treatment is to be encouraged, they still need to carry out investigations into councillor standards fairly and properly."

4.0 Financial Implications

4.1 There are no financial implications arising out of this report.

5.0 Legal Implications

5.1 The Council, individual Members and co-opted Members are required to promote and maintain high standards of conduct in accordance with s27 of the Localism Act 2011. The attendance at mandatory training sessions is a means to achieve this and a requirement pursuant to the Brent Members' Code of Conduct as set out in Part 5, of the council's Constitution.

6.0 Equality Implications

6.1 There are no equality implications arising out of this report.

7.0 Consultation with Ward Members and Stakeholders

7.1 Not applicable.

8.0 Human Resources/Property Implications (if appropriate)

8.1 Not applicable.

Report sign off:

Debra Norman

Corporate Director, Governance