



# Complete Agenda

**Democratic Service**  
Swyddfa'r Cyngor  
CAERNARFON  
Gwynedd  
LL55 1SH

Meeting

**STANDARDS COMMITTEE**

Date and Time

**11.00 am, MONDAY, 21ST JANUARY, 2019**

Location

**Ystafell Gwyrfai, Council Offices, Caernarfon, Gwynedd. LL55 1SH**

Contact Point

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(DISTRIBUTED 11/01/19)

# **STANDARDS COMMITTEE**

## **Membership**

### **Elected Members (3)**

Councillors

Anne Lloyd Jones  
Beth Lawton  
Dewi Wyn Roberts

### **Independent Members (with a vote) (5)**

Aled Jones  
Margaret E. Jones  
David Wareing  
Einir Young  
[Vacant Seat]

### **Community Committee Member (with a vote) (1)**

Richard Parry Hughes

# **A G E N D A**

**1. APOLOGIES**

To receive any apologies for absence.

**2. DECLARATION OF PERSONAL INTEREST**

To receive any declaration of personal interest.

**3. URGENT ITEMS**

To note any items that are a matter of urgency in the view of the Chairman for consideration.

**4. MINUTES**

4 - 7

The Chairman shall propose that the minutes of the previous meeting of this committee held on 1st October, 2018 be signed as a true record (attached).

**5. THE REGISTER OF MEMBERS' INTERESTS**

8 - 14

To submit the report of the Monitoring Officer (attached).

**6. STANDARDS COMMITTEE MEETINGS**

15

To submit the report of the Monitoring Officer (attached).

**7. ALLEGATIONS AGAINST MEMBERS**

16 - 17

To submit the report of the Monitoring Officer (attached).

**8. ADJUDICATION PANEL FOR WALES ANNUAL REPORT 2017-18**

18 - 34

To submit the report of the Monitoring Officer (attached).

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## STANDARDS COMMITTEE 1/10/18

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**Present:-**

**Elected Members:-** Councillors Beth Lawton and Dewi Roberts.

**Independent Members:-** Mr Aled Jones, Miss Margaret Jones, Dr Einir Young (Chair) and Mr David Wareing.

**Also in Attendance:** Iwan Evans (Monitoring Officer), Sion Huws (Senior Solicitor) and Eirian Roberts (Member Support Officer).

**Observer:** Vera Jones (Democratic Services Manager)

### 1. APOLOGIES

Councillor Anne Lloyd Jones and Mr Richard Parry Hughes.

### 2. DECLARATION OF PERSONAL INTEREST

No declarations of interest were received from any members present.

### 3. URGENT ITEMS

No urgent matters were raised.

### 4. MINUTES

The Chair signed the minutes of the previous meeting of this Committee held on 9 July 2018 as a true record.

Referring to item 10 of the minutes - Wales Standards Conference 2018 - the Chair noted that there had been some misunderstanding regarding the representation of the Committee at the conference, and to avoid any similar confusion in future, she suggested that it would be beneficial to circulate the Committee's action points to the members soon after every meeting.

### 5. REVIEW OF THE PROCEDURE FOR APPLICATIONS FOR DISPENSATIONS

Submitted - the report of the Monitoring Officer inviting the Committee to discuss and decide whether to amend the procedure for applications for dispensations.

The members were asked to consider the propriety of allowing those applying for dispensation to appear before the Committee. There were three available options, namely:-

- To allow applicants to appear before the Committee and submit their applications in person. However, this would increase the risk of receiving additional information on the day that would not have been sufficiently scrutinised.
- To allow applicants to appear before the Committee to further explain their application by answering questions only.

- To continue with the current procedure based on a written report by the Monitoring Officer, along with a copy of the application form, as well as any additional information received by officers after contacting the applicant.

During the discussion, the following points were noted:-

- It would not be mandatory for applicants to appear before the Standards Committee, therefore in relation to the comment in the report that the procedure would be costly in terms of time for the applicant, it would be their choice whether or not to attend the meeting. Also, it was not anticipated that the travelling costs would be substantial.
- The number of applications for dispensation was much lower than some years ago, during the school organisation process.
- Enabling the applicant to get his or her point across in person was very important.
- It was possible for an application to be clear on paper, and that the applicant did not need to attend, but it would be good to give them the opportunity, if needed.
- Unsuccessful applicants in the past had said that they would have benefited from being able to attend the Committee to provide further explanation. However, that explanation might not necessarily have made a difference to the outcome.
- As the members' questions were likely to come from a slightly different direction to the officers' questions, it was not possible for the officers to anticipate what questions were likely to come up at the Committee and to ask those questions of the applicants at the time of summing up the information for the Committee.
- There was room to strengthen the contact with the Town and Community Council clerks as County Council officers were not able to answer questions about the business of the council in question.
- It was extremely important that applicants filled the form in full and there was a risk, in inviting applicants to the meeting that they would not bother much with the contents of the form. It was also possible that some people were having difficulty completing the form.
- The recommendation 'insisting' that the Clerk provide a letter explaining the context was placing them under too much pressure, and it should note, rather, that they were 'expected' to provide a letter.

#### **RESOLVED**

- (a) To allow those applying for dispensations to attend meetings of the Standards Committee to answer possible questions by the Committee only, if they wish. This is on condition that:-**
- They are not allowed to present their case.
  - They are expected to have completed their application forms comprehensively and accurately.
- (b) To allow dispensation for members to be present at the meetings to answer questions about their application.**
- (c) To review the procedure following a reasonable period of time.**
- (ch) To revise the procedure for applying for dispensations in respect of Town and Community Councils to note that the Clerk is expected to provide a letter explaining the context which should be submitted with the application.**
- (d) To delegate the power to provide guidelines for a questioning procedure based on the contents of the report to the Monitoring Officer.**

#### **6. THE STANDARDS COMMITTEE'S PRESENCE ON THE COUNCIL WEBSITE**

Submitted – the report of the Monitoring Officer inviting the Committee's comments and recommendations on what was to be included about the Standards Committee on the Council website.

During the discussion, the following points were noted:-

- It was advantageous for people to know more about the Committee's activities, and to understand that the Standards Committee was not able to provide a solution for everything.
- Referring to the current details of the Committee's membership on the website, it was noted that the members' names should be listed either alphabetically, or per category i.e. elected, independent and community committee.

The Monitoring Officer noted that including a flow chart on the website referring to the Code of Conduct complaints procedure could be considered, i.e. how to complain and what happened to the complaint. Also, in response to an enquiry, the Monitoring Officer agreed to seek more information from the Ombudsman regarding the expectations in terms of the timetables and to include this with the time-line.

**RESOLVED to accept the report with the following comments:-**

- **Ensure that the Committee membership is listed on the website either alphabetically, or per category i.e. elected, independent and community committee.**
- **That the Monitoring Officer seek more information from the Ombudsman regarding the expectations for complaints deadlines and to include this with the time-line on the website.**

## **7. ALLEGATIONS AGAINST MEMBERS**

Submitted – the report of the Monitoring Officer presenting information about the Ombudsman's decisions on formal complaints against members.

The Monitoring Officer explained that the Ombudsman's decision not to investigate a complaint did not mean that the Member had not breached the Code of Conduct and there was a need to convey the message to the Member that the conduct was not appropriate and that the Ombudsman could take this into consideration should he see a pattern of similar complaints developing against the Member in future.

During the discussion, the following points were noted:-

- It was important that people understood that they had breached the Code, even if there was no investigation.
- There was concern about the impact on the victim if the Ombudsman decided not to investigate.
- There was a need to emphasise that the Code must be respected, regardless of the circumstances.
- If there was a perception that the Code could be breached in a case that the Ombudsman would not investigate, the Monitoring Officer should send a letter to the Member, addressing the Ombudsman's letter and reminding the Member of the importance of respecting the Code.
- There was a need to emphasise the need for a member to behave respectfully towards everyone at all times.

**RESOLVED**

**(a) To note the report.**

**(b) If there is a perception by the Ombudsman that the Code could have been breached in a case that the Ombudsman does not intend to investigate, the Monitoring Officer should send a letter to the member concerned, addressing**

**the Ombudsman's letter, referring to the Ombudsman's opinion, the importance of the Code of Conduct and offering help or support suggestions.**

**8. THE OMBUDSMAN'S ANNUAL REPORT 2017-18**

Submitted for information – the report of the Monitoring Officer appending the Ombudsman's 2017/18 Annual Report.

The Monitoring Officer noted that the number of code of conduct complaint that came to hand relating to Community Councils had increased 33%. Nevertheless, the number of complaints across Wales was low - approximately 200. Based on the principle that there was always room for improvement, the pilot was implemented in Gwynedd, in the hope that it would bear fruit.

**RESOLVED to note the report.**

**9. WALES STANDARDS CONFERENCE 2018**

Submitted – an oral report from the Monitoring Officer on the Wales Standards Conference 2018, held in Aberystwyth on 14 September. He noted that a formal report of the conference would be available in due course and that the 2019 conference would be held in north Wales.

**RESOLVED to note the report.**

The meeting commenced at 11.00 am and concluded at 12.10 pm

**CHAIRMAN**

# Agenda Item 5

<b>Committee :</b>	<b>STANDARDS COMMITTEE</b>
<b>Date:</b>	<b>21 January 2019</b>
<b>Title</b>	<b>The Register of Members' Interests</b>
<b>Author:</b>	<b>Monitoring Officer</b>
<b>Action:</b>	<b>To ask for eth Committee's views</b>

## Background

1. Elected members and co-opted members with voting rights must inform the Monitoring Officer of their interests under the Code of Conduct. The Monitoring Officer must keep a register of these interests.

2. The register therefore contains the 'upfront' registration made by members when they become members (they must also keep this current). It also contains the declarations of interest made by members at meetings.

3. The register is kept in paper format and has always been available to anyone who wishes to come in to inspect it. The Council is now required to publish the Register of Members' Interests electronically, and it is therefore also available on the Council's website. Each member's declarations are available through accessing their personal pages on the website. The declarations made in meetings are to be found in the minutes of that meeting and these too can be viewed via the member's personal page. These pages can be viewed through the following link:

<https://democracy.cyngor.gwynedd.gov.uk/mgMemberIndex.aspx?bcr=1>

4. A copy of the current form to register interests 'up front' is attached to this report.

## Recommendation

5. The Committee is asked for its views on the process of registering interests and on the attached form.



# Ffurflen Cofrestru Buddiannau /Interests Registration Form

## Cod Ymddygiad Aelodau Cyngor Gwynedd Gwynedd Council Members Code of Conduct



Cofrestrwch eich buddiannau personol dan y penawdau priodol isod gan roddi “dim” lle nad oes gennych fuddiant. Mae rhaid cwblhau pob rhan o’r ffurflen a’i dychwelyd i’r Swyddog Monitro o fewn 28 diwrnod.

*(Os ydych yn ystyried fod unrhyw wybodaeth yn wybodaeth sensitif ( gweler Atodiad 1) dylsech gysylltu a’r Swyddog Monitro am arweiniad)*

**Register your personal interests under the appropriate heading below putting “none” where you do not have a relevant interest. You must complete every section of the form and return it to the Monitoring Officer within 28 days.**

*(If you consider the information to be sensitive information ( see Appendix 1) you should contact the Monitoring Officer for guidance.)*

**Enw/Name**.....

### **1. Gwaith, Swyddi a Busnes**

Unrhyw gyflogaeth yr ydych yn ymgymryd â hi neu fusnes yr ydych yn ei redeg;

#### **1. Employment, Jobs and Business**

Any employment, or business carried on by you

### **2. Eich Cyflogwr, Partneriaethau neu Gyfarwyddwriaethau**

Unrhyw berson sy'n eich cyflogi neu sydd wedi eich penodi, unrhyw ffyrm yr ydych yn bartner ynddi neu unrhyw gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl.

#### **2. Your Employer, Partnerships or Directorships.**

Any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director.

**3. Taliadau Etholiad a Chefnogaeth Ariannol**

unrhyw berson, ac eithrio'r Cyngor sydd wedi rhoi taliad i chi mewn cysylltiad â'ch ethol neu mewn cysylltiad ag unrhyw dreuliau a dynnwyd gennych wrth i chi gyflawni eich dyletswyddau fel aelod;

**3.Election Payments and Financial Support**

any person, other than the Council , who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

**4.Cyfranddaliadau a Waranau ( "Securities") Mewn Cwmnïau**

Unrhyw gorff corfforaethol y mae ganddo le busnes neu dir yng Ngwynedd , ac y mae gennych gyfranddaliadau neu waranau ( securities) eraill yn y corff hwnnw ac sy'n werth mwy na'r gwerth enwol o £25,000 neu un ganfed ran o gyfanswm cyfalaf cyfrannau'r corff hwnnw;

**4. Shareholdings and Securities in Companies**

Any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body

**5. Cytundebau gyda'r Awdurdod**

Unrhyw gontract am nwyddau, gwasanaethau neu waith a wnaed rhyngoch chi, rhwng ffyrm yr ydych yn bartner ynddi, neu gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu rhwng corff o'r math a ddisgrifir yn 4 uchod a'r Cyngor

**5. Contracts With the Authority**

Any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph 4 above

**6.Tir ac Eiddo**

Unrhyw dir neu eiddo Yng Ngwynedd yr ydych yn berchen arno neu yn dal les ynddo (ar eich pen eich hun neu ar y cyd ag eraill) gan gynnwys eich cartref.

**6. Land and Property**

Any land or properties in Gwynedd of which you are an owner, hold a lease of (alone or jointly with others) including your home.

**7. Tenantiaeth gan y Cyngor**

Unrhyw dir y mae'r Cyngor yn landlord arno ac y mae ffyrm yr ydych yn bartner ynddi, cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu gorff o'r math a ddisgrifir yn 4 uchod yn denant arno;

**7.Tenancies by the Council**

Any land where the landlord is the Council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph 4 above.

**8.Penodiadau gan yr Awdurdod**

Unrhyw gorff yr ydych wedi eich ethol, eich penodi neu eich enwebu gan eich Cyngor i fod arno;

**8.Appointments by The Council**

Any body to which you have been elected, appointed or nominated by the Council;

**9. Aelodaeth neu Swyddogaeth Reoli Cyrff Cyhoeddus , Cymdeithasau Tai, Elusennau, Cymdeithasau a Chlybiau, Pleidiau Gwleidyddol (nad ydynt wedi eu datgan yn 8 uchod),**

Unrhyw;

- awdurdod cyhoeddus neu gorff sy'n arfer swyddogaethau o natur gyhoeddus;
- cwmni, cymdeithas ddiwydiannol a darbodus, elusen, neu gorff arall a chanddo ddibenion elusennol;
- corff y mae dylanwadu ar farn neu bolisi cyhoeddus ymhlith ei brif ddibenion;
- undeb llafur neu gymdeithas broffesiynol; neu
- clwb preifat gymdeithas neu gymdeithasiad sy'n gweithredu o fewn ardal Gwynedd

yr ydych chi'n aelod ohono/ohoni neu'n dal swydd neu swyddogaeth o reolaeth y corff.

**9. Membership or Management Role of Public Bodies, Housing Associations, Charities, Clubs and Associations, Political Parties (which are not disclosed in 8 above).**

Any;

- public authority or body exercising functions of a public nature;
- company, industrial and provident society, charity or body directed to charitable purposes;
- body whose principal purposes include the influence of public opinion or policy;
- trade union or professional association; or
- private club, society or association operating within the Gwynedd area

in which you have membership or hold a position of general control or management.

**10. Trwydded o Dir**

Unrhyw dir yng Ngwynedd y mae gennych chi drwydded (ar eich pen eich hun neu ar y cyd ag eraill) i'w feddiannu am 28 diwrnod neu gyfnod hwy

**10. Licence in Land**

Any land in Gwynedd in which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

**Arwyddwyd /Signed**.....

**Dyddiad /Date**.....

## ATODIAD 1 / APPENDIX 1

<b>18.5 Y GOFRESTR BUDDIANNAU AELODAU</b>	<b>18.5 THE REGISTER OF MEMBERS' INTERESTS</b>
<p>18.5.1 Cofrestru Buddiannau Ariannol ac Eraill ac Aelodaeth a Swyddi Rheoli.</p> <p>(a) Yn amodol ar is-baragraff (c) mae'n rhaid i chi o fewn 28 diwrnod o'r</p> <p>(i) adeg y caiff côd ymddygiad eich awdurdod ei fabwysiadu neu y caiff darpariaethau gorfodol y côd enghreifftiol hwn eu cymhwyso i'ch awdurdod; neu o'ch</p> <p>(ii) etholiad neu benodiad i'r swydd (os yw hynny'n ddiweddarach), gofrestru eich buddiannau ariannol a buddiannau eraill, pan fyddant yn dod o fewn categori a grybwyllwyd ym mharagraff 8.4.1(b)(i) yng nghofrestr eich awdurdod a gynhelir o dan Adran 81(1) Deddf Llywodraeth Leol 2000 trwy roi hysbysiad ysgrifenedig i Swyddog Monitro eich awdurdod.</p> <p>(b) Mae'n rhaid i chi, o fewn 28 diwrnod o ddod yn ymwybodol o unrhyw fuddiant personol newydd neu newid i unrhyw fuddiant personol a gofrestrwyd o dan baragraff (a), gofrestru'r buddiant personol newydd hwnnw neu'r newid hwnnw i fuddiant personol trwy roi hysbysiad ysgrifenedig i Swyddog Monitro eich awdurdod.</p> <p>(c) Nid yw paragraffau (a) a (b) yn berthnasol i wybodaeth sensitif a bennwyd un unol â pharagraff 18.5.2(a).</p>	<p>18.5.1 Registration of Financial and Other Interests and Memberships and Management Positions</p> <p>(a) Subject to sub-paragraph(c) you must within 28 days of</p> <p>(i) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or</p> <p>(ii) your election or appointment to office (if that is later) register your financial interests and other interests where they fall within a category mentioned in paragraph 18.4.1(b)(i) in your authority's register maintained under Section 81(1) of the Local Government Act 2000 by providing written notification to your authority's Monitoring Officer.</p> <p>(b) You must within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (a), register that new personal interest or change by providing written notification to your authority's Monitoring Officer.</p> <p>(c) Sub-paragraphs (a) and (b) do not apply to sensitive information determined in accordance with paragraph 18.5.2(a).</p>
<p><b>18.5.2 Gwybodaeth Sensitif</b></p> <p>(a) Pan fyddwch o'r farn bod y wybodaeth yn ymwneud ag unrhyw un o'ch buddiannau personol yn wybodaeth sensitif a bod Swyddog Monitro eich awdurdod yn cytuno, ni fydd angen i chi gynnwys y wybodaeth honno wrth gofrestru'r buddiant hwnnw, neu, fel y bo'n berthnasol newid i'r buddiant o dan baragraff 18.5.1.</p> <p>(b) Mae'n rhaid i chi o fewn 28 diwrnod o ddod yn ymwybodol o unrhyw newid i amgylchiadau sy'n golygu nad yw'r wybodaeth a eithriwyd o dan is-baragraff (a) yn wybodaeth sensitif mwyach, hysbysu Swyddog Monitro eich awdurdod gan ofyn i'r wybodaeth gael ei chynnwys yng nghofrestr buddiannau aelodau eich awdurdod.</p> <p>(c) Yn y côd hwn, mae "gwybodaeth sensitif" yn golygu gwybodaeth y byddai caniatáu iddi gael ei harchwilio gan y cyhoedd yn creu, neu'n debygol o greu, risg ddifrifol y gallech chi neu unigolyn sy'n byw gyda chi fod yn agored i drais neu fygythion.</p>	<p><b>18.5.2 Sensitive Information</b></p> <p>(a) When you consider that the information relating to any of your personal interests is sensitive information and your authority's monitoring officer agrees, you need not include that information when registering that interest, or as the case may be a change to the interest under paragraph 18.5.1.</p> <p>(b) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (a) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.</p> <p>(c) In this code, 'sensitive information' means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.</p>



# Agenda Item 6

MEEETING	Standards Committee
DATE	21 January 2019
TITLE	Standards Committee Meetings.
AUTHOR	Monitoring Officer.

## Background

The aim of the report is to consider the number of ordinary meetings of the Standards Committee which are held during the municipal year.

Currently, the Committee meets on the basis of a programme of 4 meetings a year. Nevertheless there are occasions when the agenda is primarily for information. There is room to consider whether 4 fixed meetings a year are required and might they be condensed into 3. During the last two years we have cancelled one in each year.

In reviewing the annual work plan it appears that 3 meetings well timed to accord with the Councils time table would allow for continuation of the programme without undermining activities. If a specific or special meeting is required then this can be provided for,

I have canvassed the other North Wales Councils in relation to their programmes.

Council	Frequency	Observation
Conwy	4 per annum	
Denbigh	4 per annum	
Flint	12 per annum	
Wrexham	4 per annum	
Anglesey	2 per annum	It is noted that Anglesey hold a dispensations panel and their members are very proactive across a wider programme.

## RECOMMENDATION

The Committees views are sought on the number of meetings.

# Agenda Item 7

<b>Committee:</b>	<b>THE STANDARDS COMMITTEE</b>
<b>Date:</b>	<b>21 January 2019</b>
<b>Title:</b>	<b>Allegations against members</b>
<b>Author:</b>	<b>Monitoring Officer</b>
<b>Purpose:</b>	<b>For information</b>

## 1. Background

The purpose of this report is to inform the Committee of the Ombudsman's decisions on formal complaints against members.

## 2. Decisions

### **Complaint 14539/201702769**

A complaint that a County Councillor had failed to register land ownership as an interest and had failed to declare this when discussing a planning application with officers.

The Ombudsman investigated the complaint and reached the following conclusion:

- It appears that the member was in breach of the code by failing to register the interest and by failing to declare this when e-mailing planning officers.
- The content of the e-mail blurred the line between the member's role as an individual and his role as a member of the Council.
- Despite the Member's arguments to the contrary, the Ombudsman was of the opinion that had received sufficient training on the Code of Conduct and if unclear about any aspect, it was his responsibility to seek further advice from the Monitoring Officer.
- Having considered the public interest test, it was decided that no further action was necessary in this instance as the individual was a new member at the time, that this was the first time his conduct had been brought to the Ombudsman's attention, and that he had since completed the registration of interest correctly.
- He would write to the member to emphasise the importance of keeping separate his private and public roles and that he should seek advice from the Monitoring Officer if he needs more training on the Code of Conduct.

### **Complaint 201805374**

Complaint by a member of the public that a member of the Community Council had:

- made a false statement in order to undermine support for a local campaign led by the complainant



- used her influence on a committee of the local hall to prevent the complainant from hiring the hall.

The Ombudsman resolved not to investigate the complaint for the following reasons:

- The complainant had not submitted sufficient evidence to support the complaint, but even had she done so, the Ombudsman was not of the opinion that the Code of Conduct would have been breached
- It was unclear whether the Member was, at the time, acting as a Member. Even if she were doing so, the Ombudsman was not satisfied that she had prevented the complainant from hiring the hall.

### 3. Analysis of the Complaints

Below is an analysis of the nature of this year's complaints to date:

<b>Member who is subject of the complaint</b>	
Member of community council	8
Member of Gwynedd Council	3
Member of Gwynedd Council and community council	0
<b>Nature of the complainant</b>	
Councillor	3
Member of the public	7
Officer	1
<b>Nature of the allegation</b>	
Overall conduct	4
Declaration of Interest	7
<b>Outcome</b>	
No Investigation	10
Investigation – No evidence of breaching the Code of Conduct	0
Investigation – Evidence of breaching the code but no further steps required	1
Investigation - referral to the Standards Committee	0
Investigation - Referral to the Adjudication Panel for Wales	0

### 4. Open Cases

The situation in relation to other cases is as follows:

- **Ombudsman considering an investigation 2**
- **Ombudsman investigating 0**

### 5. Recommendation

The Committee is asked to note the information.

# Agenda Item 8

<b>Committee :</b>	<b>Standards Committee</b>
<b>Date :</b>	<b>21 January 2019</b>
<b>Title :</b>	<b>Adjudication Panel for Wales – Annual Report 2017-18</b>
<b>Author :</b>	<b>Monitoring Officer</b>
<b>Purpose :</b>	<b>Presented for information</b>

## **Background**

1. Members will be aware that the Adjudication Panel for Wales' role is to form case tribunals to consider allegations that members have breached the Code of Conduct. The Panel will receive such allegations in one of two ways – either directly from the Ombudsman or in the form of Appeals against decisions made by Standards Committees.

2. A copy of eth Panel's Annual Report is attached for the Committee's attention.

## **Recommendation**

3. The Committee is asked to note this report for information.



# Adjudication Panel for Wales Annual Report

Year 2017 – 2018

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## Foreword

This is my third annual report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2017-31 March 2018.

We aim to ensure that the Panel serves the interests of all those in Wales falling within our jurisdiction, by dealing with any disputes both efficiently and effectively. Specifically, we make every effort to ensure that all those involved in the dispute ultimately feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We also are conscious that the wider public must have confidence that any breaches of the Code of Conduct by members will be dealt with fairly and in a timely way in order to uphold trust and confidence in local democracy.



The same themes have arisen in the cases heard by the APW over the last year; the bullying and harassment of council officials by elected members and failure to show respect and consideration. This has required APW panels to balance carefully the vital right of representatives in a democracy to express their opinion (particularly when undertaken in a political context) with the rights of others not to be bullied or abused in the workplace. When such comments are linked to perceived or actual disabilities, the APW views such activities as potentially discriminatory and more likely than not to require restriction of the right to freedom of expression. It is to be hoped that members will bear in mind their “quasi employer” status when dealing with council officials, especially if they are junior or disabled.

Also in the past year, I am pleased that the APW has strengthened its leadership team with the creation of the role of Deputy President, and the appointment of Ms Sian Jones to that role.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar.

A handwritten signature in blue ink, which appears to read 'C Sharp'.

**Claire Sharp**  
**President, Adjudication Panel for Wales**

# Section 1 – About Us

In this section:

- Basis for the APW
- The APW’s Function
- The APW’s Regulations
- The APW’s Process
- Members of the APW
- Appointments
- Training
- Contacting the APW
- Accessing the APW

## Basis for the APW

The Adjudication Panel for Wales (APW) is an independent tribunal that has been set up to determine alleged breaches against an authority’s statutory Code of Conduct by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities.

The APW was established under Part III of the Local Government Act 2000.

## The APW’s Function

The Code of Conduct for an authority provides its members with a set of standards expected of them in public life. The code of conduct covers various requirements as to how members should conduct themselves and includes requirements in relation to equality, personal and prejudicial interests, confidential information, their authority’s resources and the need to avoid bringing their office or authority into disrepute.

The APW has two statutory functions in relation to breaches of the Code of Conduct:

- to form case or interim case tribunals (“Case Tribunals”) to consider **references** from the Public Service Ombudsman for Wales (PSOW), following the investigation of allegations that a member has failed to comply with their authority’s Code of Conduct, and
- to consider **appeals** from members against the decisions of local authority standards committees that they have breached the Code of Conduct (“Appeal Tribunals”).

## The APW’s Regulations

The APW operates in accordance with its procedural regulations and other associated legislation. The regulations ensure that all cases heard by the APW are treated fairly, consistently, promptly and justly. They ensure that everyone who comes before the APW clearly understands the steps they must take so that the facts of the dispute and the relevant arguments can be presented effectively to the APW. They also ensure that every party to a case understands the arguments of the other party and can respond to them.

APW's procedures are governed by the following legislation:

- The Local Government Act 2000 (as amended).
- The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended), and
- The Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001 (as amended).

## The APW's Process

Anyone wishing to respond to a reference from the PSOW or to make an application for permission to appeal to the APW must complete and send the relevant form to the APW.

At an APW hearing the panel is composed of a legally qualified chairperson and 2 lay members. Legally qualified members can also sit as a lay member. APW hearings are normally held in public and take place near to the authority area.

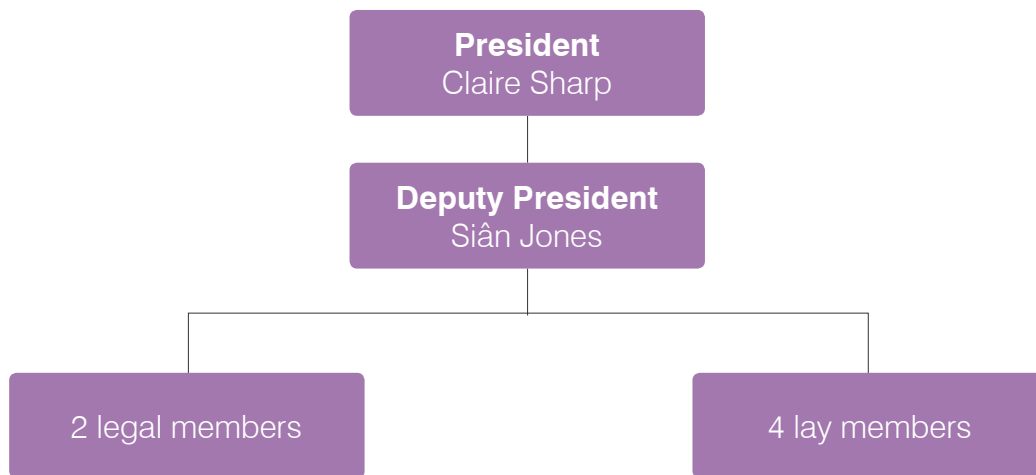
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 7.

## Members of the APW

Appointments to the APW are made by the First Minister after consideration of recommendations made by the Judicial Appointments Commission.

<b>President</b>	The President has judicial responsibility for the APW and its members.
<b>Deputy President</b>	The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently.
<b>Legal Members</b>	Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the Secretariat on matters of law. Legal members write APW decisions and give directions where necessary.
<b>Lay Members</b>	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
<b>Administration</b>	The day-to-day administration is largely delegated to the administration which deals with all the preliminary paperwork and the processing of applications to the APW. The administration consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and sends rulings and directions in writing to the parties. The administration acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings.



## Appointments

During this period, we have appointed Ms Siân Jones as the Deputy President following an independent recruitment process to act on behalf of the President should she become unable to perform her duties, either temporarily or permanently. The Deputy President also takes a leadership role in respect of areas agreed at the outset of each year with the President. During this period, the Deputy President became responsible for communication and outreach.

## Training

A training seminar was held during June 2017, with particular emphasis on judgecraft. A regular programme of performance appraisal for APW members has been completed over previous years. It is anticipated that the next round of performance appraisal for APW members will start during the course of the 2018/19 year.

## Contacting the APW

To contact the APW Administration:

APW Address:	Adjudication Panel for Wales Government Buildings Spa Road East Llandrindod Wells Powys LD1 5HA
APW Helpline:	03000 259805
APW E-mail:	<a href="mailto:adjudication.panel@gov.wales">adjudication.panel@gov.wales</a>



## Accessing the APW

The APW is happy to communicate with you in Welsh or English. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provisions will be made.

To enable arrangements for interpreters or to make provisions for any additional needs of attendees, sufficient notice must be given to the administration.

## Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Onward appeals
- Achievement against key performance indicators
- Complaints

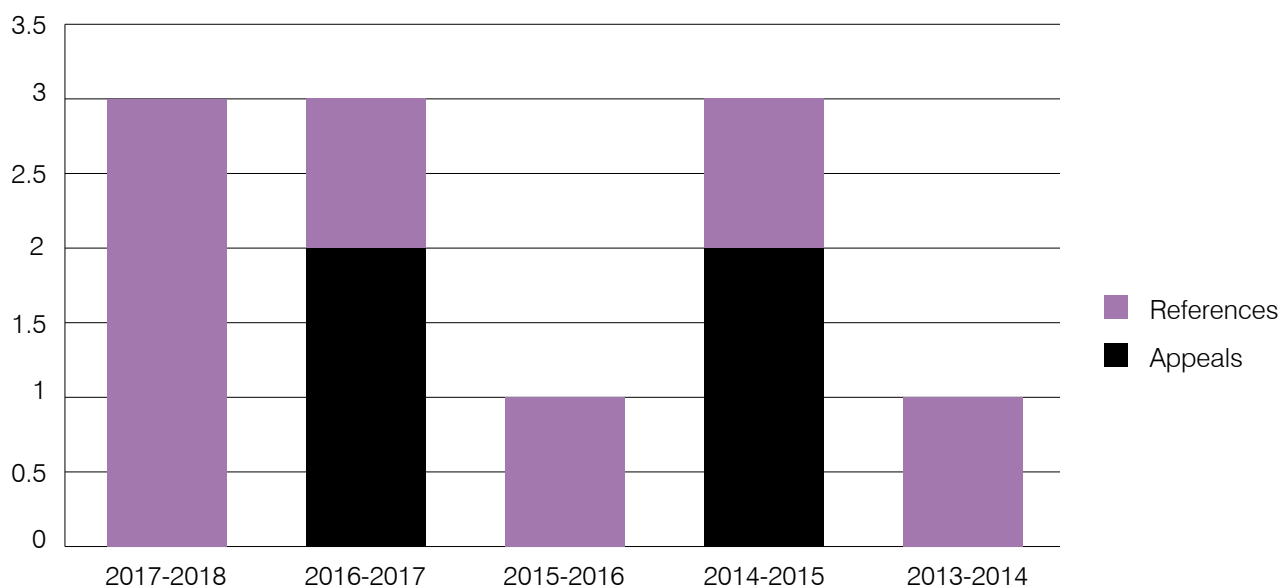
### Numbers and Statistics

A Tribunal year runs from April to March. As the numbers of cases received are relatively low, figures are given for a 5 year period to allow for comparison.

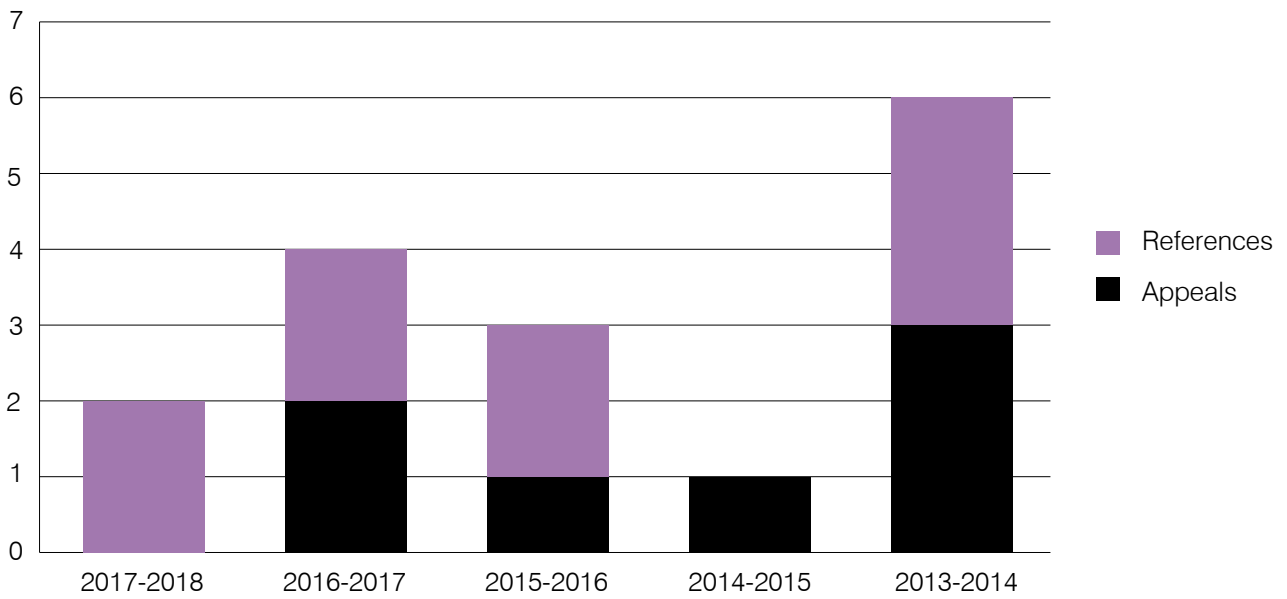
The following statistics are collated:

- Number of references and appeals received.
- Type of applications received and registered.
- Number of applications finalised.
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year

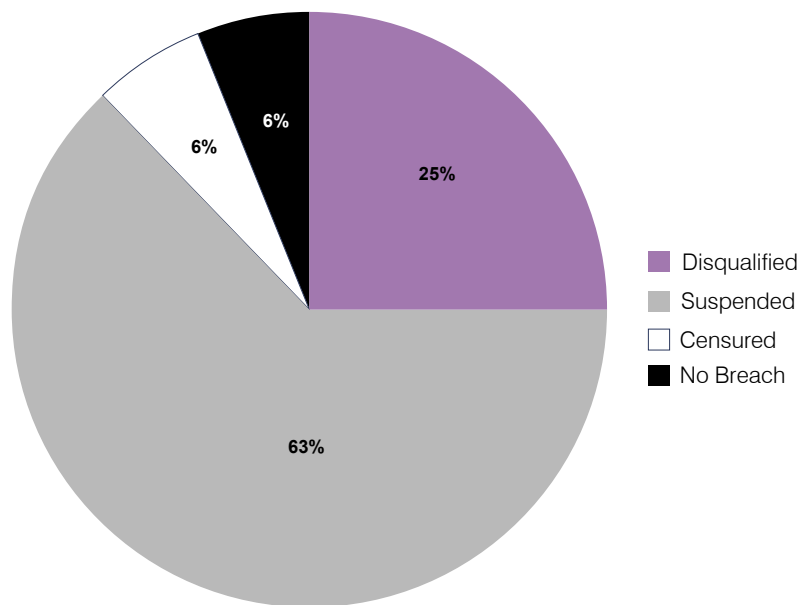


Graph 2.2: Number of references and appeals decided by year April 2013-March 2018

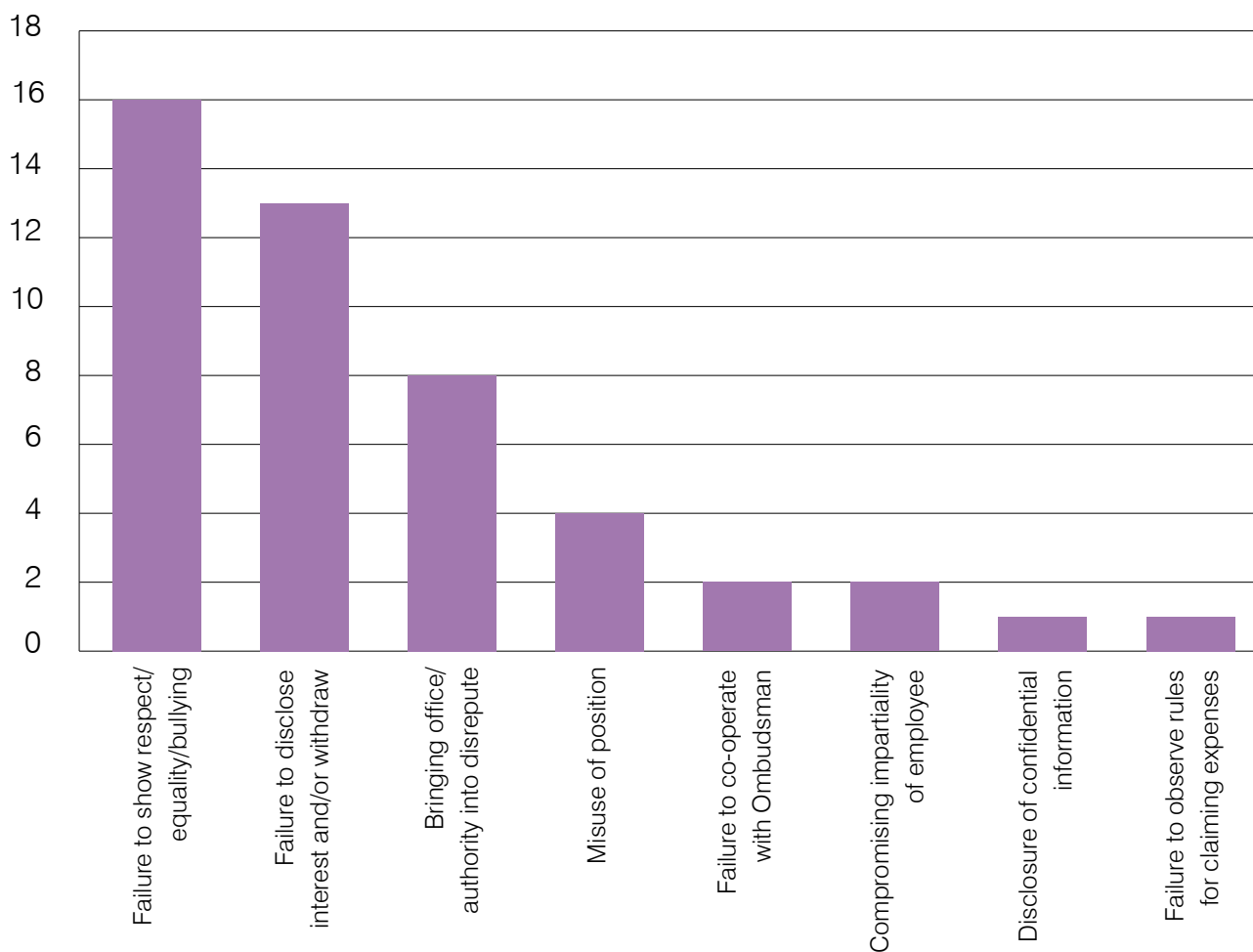


Charts 2.3: Outcomes of references and appeals April 2013-March 2018

The chart below shows the outcome of references and appeals decided by the Adjudication Panel over the last 5 years



Graph 2.4: Breaches by type April 2013-March 2018



### Hearings data

During 2017-2018, 2 referrals from the PSOW proceeded to hearing, resulting in a total of 3 hearing days:

Type	Length (in days)
Reference	3 hearing days
Appeal	0 hearing days

There was also 1 telephone conference which took place in relation to these cases.

### Onward appeals

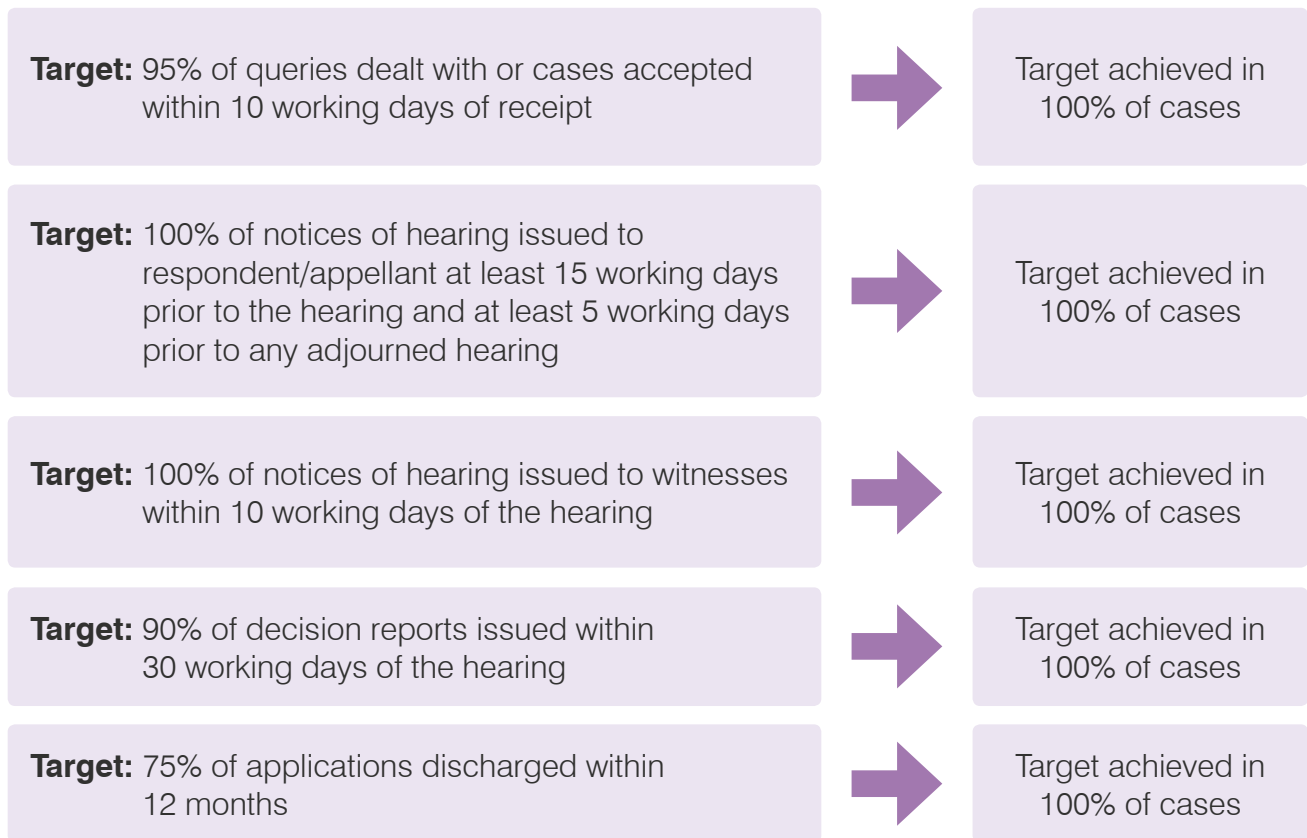
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

## Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our business; the speed of our service and the quality of service through customer satisfaction.

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below). To measure customer satisfaction, we use an indicator that is derived from feedback forms that are issued when a case is complete (see section 4).

### Speed of our service 2017-2018



### Complaints

The APW did not receive any formal complaints during the reporting period.

## Section 3: Case summaries

In this section:

- References
- Appeals

### References

During the reporting period 2 case tribunal hearings took place resulting from references from the Ombudsman. Summaries of the cases determined by the APW appear below.

#### APW/001/2017-018/CT Flintshire County Council

The allegations were that the councillor had breached the Code of Conduct of Flintshire County Council by failing to show respect and consideration for others and using bullying and harassing behaviour.

The incident arose out of emails sent by the councillor to a council official whilst raising matters on behalf of her constituents. The councillor expressed her view of a particular council officer, who was not tasked to deal with the issue, in emails to various parties.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with Flintshire County Council's Code of Conduct as follows:

- You must show respect and consideration for others (paragraph 4(b)).
- You must not use bullying behaviour or harass any person (paragraph 4(c)).

The Case Tribunal concluded by unanimous decision that the councillor should be disqualified for 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000. It noted that the councillor had previously appeared before the APW and had committed to following the requirements of the Code of Conduct fully. The Case Tribunal concluded that the councillor had acted recklessly or deliberately, and failed to co-operate with the Ombudsman's investigation.

#### APW/002/2017-018/CT Conwy County Borough Council

The allegations were that the councillor had breached the Code of Conduct of Conwy County Borough Council by failing to carry out his duties with due regard to the principle that there should be equality of opportunity for all people, failing to show respect and consideration for others, by using bullying and harassing behaviour, by undertaking actions which compromised or which was likely to compromise the impartiality of those who work for or on behalf of the authority, by disclosing confidential information, by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute, by using or attempting to use his position improperly to confer on or secure for himself or any other person an advantage or create or avoid for himself or any other person a disadvantage, by seeking to influence a decision in which he had a prejudicial interest, and by making written

representations about a decision in which he had a prejudicial interest.

The incident arose from the removal of a close personal associate of the councillor from his role as a school governor, and the naming of the councillor in the initial letter from the Council informing the individual of the proposal to remove him from his role. This led to the councillor undertaking a course of conduct which saw him make serious allegations about various council officials and employees, disclose confidential information to third parties, make representations on behalf of his close personal associate and improperly pressure a council officer to assist him.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with Conwy County Borough Council's Code of Conduct as follows:

- You must carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion (paragraph 4(a)).
- You must show respect and consideration for others (paragraph 4(b)).
- You must not use bullying behaviour or harass any person (paragraph 4(c)).
- You must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority (paragraph 4(d)).
- You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so (paragraph 5(a)).
- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (paragraph 6.1(a)).
- You must not in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage (paragraph 7(a)).
- Where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee, not seek to influence a decision about that business (paragraph 14(1)(c)).
- Where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee, not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business (paragraph 14(1)(d)).

The Case Tribunal concluded by unanimous decision that the councillor should be disqualified for 18 months from being or becoming a member of Conwy County Borough Council or of any other relevant authority within the meaning of the Local Government Act 2000.

## Appeals

During the reporting period, no appeal tribunal hearings took place.

## Section 4 – Our Customers

In this section:

- Customer satisfaction survey

### Customer satisfaction survey

The APW strives to improve customer service delivery and its aim is to put our customers at the heart of everything we do.

During 2017-2018 the APW distributed a customer satisfaction survey on case completion. The feedback from the survey enables us to gain a better understanding of our customers' needs and gives a valuable insight into what the APW is doing well, as well as highlighting those areas where the APW needs to improve.

We received 1 completed form during 2017-2018, which stated that:

- the APW was prompt to respond
- the APW was polite and helpful
- they were satisfied with the information they received
- they were able to understand the process
- they found the information in the guidance forms useful, and
- we processed the case efficiently.



## Section 5 – Business Priorities

In this section:

- Business priorities for 2018-2019

It is important that the APW continues to develop in order to deliver the best possible service for our customers. This section is about how the APW will build on its achievements through focusing on business priorities and our commitment to our customers.

### Business Priorities 2018-2019

- To address the requirement for new legal members to the APW with a view to increasing the diversity of its membership.
- Plan and deliver an all-members training event and training for new legal members.
- Implement a new appraisal system for all members.
- Continue to monitor and update the APW website to include non-written forms of communication.
- Deliver an effective and efficient service, meeting key performance indicators and responding to feedback on customer satisfaction surveys.

## Section 6 – Expenditure

In this section:

- Expenditure for 2017-2018

### Expenditure for 2017-2018

Content	Amount
Members Fees and Expenses for tribunal proceedings*	£30,000
Tribunal events (hearing costs)*	£6,000
<b>Total</b>	<b>£36,000</b>

\* rounded to the nearest £1,000