



# Complete Agenda

Democracy Service  
Swyddfa'r Cyngor  
CAERNARFON  
Gwynedd  
LL55 1SH

Meeting

**STANDARDS COMMITTEE**

Date and Time

**10.30 am, MONDAY, 19TH FEBRUARY, 2024**

Location

**Virtual Meeting**

**(For public access to the meeting, please contact us)**

Contact Point

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(DISTRIBUTED 09/02/24)

# **STANDARDS COMMITTEE**

## **Membership**

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

Councillors

Anne Lloyd-Jones

Beth Lawton

Dewi Owen

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

Aled Jones

David Wareing

Hywel Eifion Jones

Mark Jones

[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 declarations of personal interest.

**3. URGENT ITEMS**

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

**4. MINUTES**

4 - 12

The Chair shall propose that the minutes of the meetings of this committee held on 6th November, 2023 and 10th January, 2024 (Special Meeting) be signed as true records:-

**5. DUTIES OF THE POLITICAL GROUP LEADERS AND THE STANDARDS COMMITTEE**

13 - 15

To submit the report of the Monitoring Officer.

**6. ALLEGATIONS AGAINST MEMBERS**

16 - 21

To submit the report of the Propriety and Elections Manager.

**7. ADJUDICATION PANEL FOR WALES ANNUAL REPORT 2022-23**

22 - 39

To submit the report of the Monitoring Officer.

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## STANDARDS COMMITTEE, 6/11/23

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**Present:-**

**Elected Members:-** Councillors Anne Lloyd Jones and Beth Lawton.

**Independent Members:** Mr Aled Jones, Mr Hywel Eifion Jones (Chair), Mr Mark Jones and Mr Dave Wareing.

**Community Committee Member:** Mr Richard Parry Hughes

**Also in Attendance:** Iwan Evans (Monitoring Officer), Sion Huws (Propriety and Elections Manager) and Eirian Roberts (Democracy Services Officer).

### 1. APOLOGIES

Apologies were received from Councillor Dewi Owen.

### 2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received.

### 3. URGENT ITEMS

None to note.

### 4. MINUTES

The Chair signed the minutes of the previous committee meeting held on 26 June 2023 as a true record.

### 5. LOCAL RESOLUTION PROCEDURE

Submitted – the report of the Monitoring Officer inviting the committee:-

- To accept the proposed changes to the Local Resolution Procedure (as highlighted in Appendix 1 of the report) to reflect the introduction of the new statutory duties for Group Leaders and recommend them to the Full Council.
- To support his proposal to require the use of a complaints form (Appendix 2) as part of the Local Resolution procedure.

Observations / questions were invited from the members.

It was noted that a decision had to be made at some point on whether a complaint was suitable for a local resolution, or whether it should be referred to the Ombudsman, and it was enquired whether this step should have been included somewhere in the process.

It was enquired whether it was Cyngor Gwynedd's policy that every complaint by the public must be referred to the Ombudsman, because it could be argued that it would be better to deal with some minor low level public complaints through the Local Resolution Procedure. In response, the Monitoring Officer noted:-

- Although data could not be given on this, there was a general tendency to send public complaints to the Ombudsman for two reasons, i.e it was not always easy to identify the nature of the concern and that resources were needed to investigate those complaints.
- The current arrangement had not been designed to deal with public complaints, and although there would be qualities of going down that road, a process that worked and the public felt confident about would have to be ensured.

It was recommended that complaints forms should ask the complainant to state which output he/she was seeking as a result of the complaint. It may be that the complainant was only seeking an apology, or hoping that those they were complaining about would see the situation from his/her perspective. It was believed that asking the question would be beneficial in terms of deciding how to deal with complaints as it would highlight that not every public complaint was heavy on resources and it was possible to have a quick and simple solution for members of the public in some cases.

It was noted that paragraph 3 of Appendix 1 of the report's English version had errors and the Monitoring Officer confirmed that he would check it and make amendments to ensure that the wording read correctly.

#### **RESOLVED**

1. **To accept the proposed changes to the Local Resolution Procedure to reflect the introduction of the new statutory duties for Group Leaders and recommend to the Full Council.**
2. **To support the Monitoring Officer's intention to require the use of a complaints form as part of the Local Resolution procedure, as contained in Appendix 2 of the report, with the addition that the form requires the complainant to state which output that he/she seeks as a result of the complaint.**

#### **6. HEARINGS PROCEDURE TO THE STANDARDS COMMITTEE**

Submitted - the Propriety and Elections Manager inviting the committee to approve the amendments to the Standards Committee's Hearing Procedure as well as the associated information sheet, as a result of experiences at recent hearings.

The Monitoring Officer thanked the Propriety and Elections Manager for his work, stating that he welcomed and recommended that the Committee supported the amendments.

The Chair thanked the Propriety and Elections Manager for presenting a very professional piece of work.

**RESOLVED to approve the amendments to the Standards Committee's Hearings Procedure together with the associated information sheet.**

#### **7. GIFTS AND HOSPITALITY REGISTER**

Submitted - the Propriety and Elections Manager's report that detailed the Gifts and Hospitality Register and invited observations from the committee as part of his work to monitor standards within the Council.

Referring to the statements on the existing register, the Propriety and Elections Manager emphasised that the two members in question were not members of the Planning Committee, rather they were local members that had been offered a gift after the decisions had been made.

The Monitoring Officer noted that the report reflected that it was not always easy to deal with situations like this. He also noted that the refusing statement was encouraging as it was important that any gift offered, whether it was accepted or not, was recorded.

In response to a question from a member, it was explained that hospitality provided to members when serving external bodies was a gift from third parties, e.g. Council representatives on the National Park Authority or Adra directors, and that those bodies had their own Code of Conduct and specific arrangements. Nevertheless, he advised that any members uncertain of their situation should register regardless.

**RESOLVED to note and accept the contents of the reports.**

## **8. ALLEGATIONS AGAINST MEMBERS**

Submitted – the report of the Propriety and Elections Manager presenting information about the Ombudsman's decisions on formal complaints against members. The report also asked the Committee to consider whether they wished for these matters to be treated as exempt items in the future, so that the extensive information provided by the Ombudsman could be presented to allow the Committee to discuss in more detail the implications of the decisions from the standpoint of interpreting the Code of Conduct.

The Monitoring Officer noted that:-

- There was an option to be closed, but he was uncertain about what value it would add to the Committee from having the details regarding the identity of the individuals and councils in question, etc.
- The officers were aware of the original report where problems have arisen, and if there was a need to contact, e.g. to discuss a councillor's situation, that could be done.
- If a pattern arose, e.g. in a specific council, that he would be careful bringing that to the Committee regardless, because a case relating to that council could appear before a Standards Committee hearing in due course.

Observations / questions were invited from the members.

It was noted that the wording in cases 202303259 and 202303399 were ambiguous because the councillor was referred to as '*him*' in the first sentence, but as '*her*' in the following sentence.

It was recommended that the training had not improved the situation at all in Tywyn Town Council, where minor cases arise often. In response, the Monitoring Officer noted:-

- That these were complaints that do not proceed to an investigation, and this may suggest that the training does work.
- That it was not possible to completely avoid complaints and, possibly, that the existence of these complaints in the report did not create such a bleak picture.

It was noted that it was not understood why the Ombudsman, after discovering that a member had broken the Code of Conduct, had decided not to take any further steps in relation to the matters investigated. There was concern that this could lead to a worse situation in the future, and it was suggested that any case, regardless of how minor it was, should be investigated if the councillor in question had previously broken the Code. In response, the Monitoring Officer noted:-

- That he did not disagree with the comment, but that advising on complaints was hard on those occasions where the councillor had clearly broken the Code, but where there may not be public interest in taking steps relating to the matters investigated.
- That the Ombudsman and its officers also faced a hard task evaluating the complaints and reaching a conclusion regarding which ones that merited an investigation.
- That the Ombudsman's Annual Report highlighted that there was an emphasis on respect and equality, and possibly that those were the cases that the Ombudsman was most likely to investigate, and also most likely to take steps in the public interest.

Referring to the 202201791 case, it was noted that there was a suggestion by the Ombudsman that the advice given by the Clerk was not as clear as it could have been, and it was enquired whether the officers had noted that training needed to be provided to the Clerk regarding that. In response, the Propriety and Elections Manager confirmed that had been noted. He also noted that such cases could be useful to the officers in terms of preparing training as it highlighted what happens on the ground and where the weaknesses were.

It was noted that research completed last year with a selection of town and community council clerks in relation to the Ethical Standards Framework had highlighted that only a small amount of them had a specific qualification to be able to advise. In response, the Monitoring Officer noted that the clerk's role equated to the Chief Executive in terms of the range of duties, if not their size, and that challenges could arise regarding the post.

**RESOLVED to note the information and continue to present the information to the Standards Committee in the form of summaries without specific details.**

## 9. ANNUAL REPORT OF THE OMBUDSMAN

Submitted - the Monitoring Officer's report appending the Ombudsman's 2022-23 annual report.

The Monitoring Officer noted that:-

- A decrease was seen in the number of Code of Conduct matters, but that the Ombudsman's main concern related to respect and equality matters, with around 67% of the complaints received relating to this aspect.
- It was hard to take away any specific messages from the report, but it was understood from discussions with the Ombudsman's officers, that they were looking at the patterns of complaints deriving from the Annual Report, and possibly, further information would be available that would help frame the training, but also the discussion with Political Groups Leaders.

Referring to the Key Performance Indicators (page 124 of the report / page 177 of the agenda), the Chair noted that the performance in terms of cases closed within 12 months had slightly slipped from 67% in 2021/22 to 66% in 2022/23, compared to their target of 90%, and it was enquired whether an observation should be sent to the Ombudsman stating the Committee's concern at this decrease. In response, the Monitoring Officer noted that it was not clear what had caused this, but he could contact the Ombudsman's officers to obtain an explanation regarding the factors that had led to the situation, and report back to the Committee.

**RESOLVED to note the report.**

The meeting commenced at 10.00am and concluded at 10:50am.



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## SPECIAL MEETING OF THE STANDARDS COMMITTEE, 10/01/24

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**Present:-**

**Elected Members:-** Councillors Anne Lloyd Jones and Beth Lawton.

**Independent Members:** Mr Aled Jones, Mr Hywel Eifion Jones (Chair), Mr Mark Jones and Mr Dave Wareing.

**Also in Attendance:** Iwan Evans (Monitoring Officer) and Eirian Roberts (Democracy Services Officer).

**Also in attendance:** Councillor Dawn Jones (for item 4) and Councillor Gwynfor Owen (for item 5).

Councillors Dawn Jones and Gwynfor Owen were welcomed to the meeting.

### 1. APOLOGIES

Apologies were received from Councillor Dewi Owen and Mr Richard Parry Hughes.

### 2. DECLARATION OF PERSONAL INTEREST

Mr Aled Jones declared a personal interest in item 5 as he knew Councillor Gwynfor Owen personally and professionally through his work.

The member was of the opinion that it was a prejudicial interest, and he withdrew from the meeting during the discussion on the item.

Councillors Dawn Jones and Gwynfor Owen had a personal interest in their own applications, although the Standards Committee had granted a general dispensation which allowed those applying for dispensations to attend meetings of the Standards Committee solely for the purpose of answering any questions regarding their applications. The members withdrew from the meeting after dealing with the questions.

### 3. URGENT ITEMS

None to note.

### 4. APPLICATION FOR DISPENSATION – COUNCILLOR DAWN JONES

Submitted – the Monitoring Officer's report requesting the committee consider an application for a dispensation for Councillor Dawn Jones to represent the Education and Economy Scrutiny Committee on the Task and Finish Group established by the Care Scrutiny Committee to discuss the implementation of the Gwynedd Autism Plan.

Before considering the application, the Monitoring Officer outlined the context, and noted that the Standards Committee had adopted arrangements that permitted applicants for dispensations to attend Committee meetings solely for the purpose of answering questions from the committee.

The Monitoring Officer detailed the application in question, and noted:-

- Councillor Dawn Jones had declared a prejudicial interest in the matter as individuals with whom she had a close personal connection were receiving the services that were the subject of the scrutiny.
- The application had been submitted in relation to point (dd) of the relevant regulations, namely "*the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise*".
- Although Councillor Dawn Jones worked for Sylfaen Cymunedol, a company that delivered community projects to support young people across Anglesey, Conwy and Gwynedd which inevitably came into contact with young people with autism, having discussed the matter with the member it was not considered that the nature or level of this involvement was affected by the matter in question.
- The role of members in the Task Group was not to advise or provide guidance, but rather to review the field, and although they would not be making decisions, their report would influence the direction of scrutiny in this field.
- The Ombudsman's guidance on the Code of Conduct noted that the Standards Committee would need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the Council.
- If the Committee wished to approve the application, it should be satisfied that the member had a specific role or expertise in the field that would contribute to the work of the Task Group.

Members were given an opportunity to ask questions of the Monitoring Officer.

Members were given an opportunity to ask questions of Councillor Dawn Jones.

Councillor Dawn Jones then withdrew from the meeting.

In discussing the application, the Committee considered the following factors:-

- Councillor Dawn Jones had worked with children and young people for 34 years and for 15 years she had been supporting families where a child or young person was waiting for an assessment and a diagnosis of autism.
- She had also attended a number of professional training courses in the field of autism.

The Committee agreed that the member reached the threshold relating to a specific expertise in the field and that a dispensation should be permitted for her to sit on the Task Group. However, it was suggested that she should not be appointed as Chair of the Task Group.

**RESOLVED to allow dispensation for Councillor Dawn Jones to represent the Education and Economy Scrutiny Committee on the Task and Finish Group established by the Care Scrutiny Committee to discuss the implementation of the Gwynedd Autism Plan, on the condition that she was not appointed as Chair of the Task Group.**

## **5. APPLICATION FOR DISPENSATION - COUNCILLOR GWYNFOR OWEN**

Submitted – the report of the Monitoring Officer asking the committee to decide on a request for dispensation by Councillor Gwynfor Owen:-

- To represent the Education and Economy Scrutiny Committee on the Task and Finish Group established by the Care Scrutiny Committee to discuss the implementation of the Gwynedd Autism Plan.
- To receive a general dispensation that would allow him to speak and vote on any occasion when this issue arose.

The Monitoring Officer detailed the application in question, and noted:-

- Councillor Gwynfor Owen had declared a prejudicial interest in the matter as an individual with whom he had a close personal connection was receiving the services that were the subject of the scrutiny.
- The application had been submitted in relation to points (ch),(dd) and (e) of the relevant regulations, namely *"if the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business"; "if the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise" and "if the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest"*.
- The role of members in the Task Group was not to advise or provide guidance, but rather to review the field, and although they would not be making decisions, their report would influence the direction of scrutiny in this field.
- The Ombudsman's guidance on the Code of Conduct noted that the Standards Committee would need to balance the public interest in preventing members with prejudicial interests from taking part in decisions against the public interest in decisions being taken by a reasonably representative group of members of the Council.
- If the Committee wished to approve the application, it should be satisfied that the member had a specific role or expertise in the field that would contribute to the work of the Task Group.

Members were given an opportunity to ask questions of the Monitoring Officer.

Members were given an opportunity to ask questions of Councillor Gwynfor Owen.

Councillor Gwynfor Owen then withdrew from the meeting.

In discussing the application for a dispensation to sit on the Task Group, the Committee considered the following factors:-

- Councillor Gwynfor Owen had experience of involvement in the field of autism beyond family experience, as he had dealt with a number of parents of children with autism in his ward, and was also Chair of the Governors of Ysgol Hafod Lon which had a high proportion of children who had received a diagnosis of autism.
- He had also attended courses on autism for parents and had attended meetings related to autism.

The Committee agreed that the member reached the threshold relating to a specific expertise in the field and that a dispensation should be permitted for him to sit on the Task Group. However, it was suggested that he should not be appointed as Chair of the Task Group.

In discussing the application for a general dispensation to speak and vote on any occasion when the issue arose, members expressed the view that the current application was far too open-ended to approve as there was insufficient information regarding the period of the

dispensation and the context in which the matter could arise. Therefore, it was not considered that the application reached the threshold for approving a dispensation.

**RESOLVED**

- (1) To allow dispensation for Councillor Gwynfor Owen to represent the Education and Economy Scrutiny Committee on the Task and Finish Group established by the Care Scrutiny Committee to discuss the implementation of the Gwynedd Autism Plan, on the condition that he was not appointed as Chair of the Task Group.**
- (2) To refuse dispensation for Councillor Gwynfor Owen to speak and vote on any occasion when this issue arose as there was not enough information regarding the application to reach an appropriate conclusion.**

The meeting commenced at 10.30am and concluded at 11:40am.

<b>MEETING</b>	<b>Standards Committee</b>
<b>DATE</b>	<b>19 February 2024</b>
<b>TITLE</b>	<b>The Local Government And Elections (Wales) Act 2021 (“The Act”) Duties of Political Group Leaders and the Standards Committee</b>
<b>AUTHOR</b>	<b>Iwan Evans – Monitoring Officer</b>

## 1. Background

The Act places two main duties on Political Group Leaders (“Leaders”) in relation to the conduct standards of group Members through Section 62. The duties are:

- To take reasonable steps to promote and maintain high standards of conduct by members of their group.
- Co-operate with the Standards Committee as it exercises its functions.

In addition, the functions of the Standards Committee are extended to include:

- Monitor Leaders’ compliance with the duty.
- Advise, train or arrange to train Leaders on duty.

The new duty has now come into force since May 2022 which places a positive requirement on Leaders to take positive action to promote and maintain behaviour. This will involve collaboration between the Standards Committee and the Leaders. This can be a positive step to support members' standards of conduct and to resolve issues early.

A Protocol was adopted by the Committee in November 2022

[Agenda for Standards Committee on Monday, 21st November, 2022, 10.30 am \(llyw.cymru\)](#)

## 2. Standards Committee Responsibilities

The statutory changes also impose a requirement on the Standards Committee to monitor compliance and the duty as set out above and report on this as part of the annual report. To facilitate this and ensure a balanced and fair process we therefore set out to establish criteria for measuring compliance . Nationally prepared suggestions were used as a starting point. These were reviewed at a briefing meeting between Committee members and Leaders of the Political Groups. The criteria recommended is appended in Appendix 1 together with the form of report in Appendix 2.

### Recommendation

**To Approve the criteria for monitoring and reporting, Annex 1 together with the report form template (Appendix 2)**

## **Political Group Leaders Duties**

### **Criteria For Monitoring And Reporting**

Section 52 of the Local Government 2000 Act as amended by section 62 of the Local Government and Elections (Wales ) Act 2021, requires that a leader of a political consisting of members of a County Council or County Borough Council in Wales –

1. must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and
2. must cooperate with the council's standards committee (and any subcommittee of the committee) in the exercise of the standards committee's functions.

The Statutory and Non- Statutory Guidance includes at Part 2 the requirements to establish - “the threshold which the Standards Committee will use to establish whether it is content that Political Group Leaders have complied with the duties of the 2021 Act” .

1. Group Leaders to make themselves available to meet with the Monitoring Officer, Chair of the Standards Committee and Standards Committee as required,
2. Group Leaders to take steps to support the Monitoring Officer to arrange that Members within their group make themselves available to meet with the Monitoring Officer as required,
3. Group Leaders to take steps with the aim that Members within their group cooperate with the Monitoring Officer and the Standards Committee when an issue is referred to the Monitoring Officer and or the Standards Committee,
4. Group Leaders to record any areas of concern in their Groups and raise them with the Monitoring Officer in a timely manner.
5. Group leaders to support Member attendance at mandatory training events,
6. Group Leaders to complete the Group Leader proforma, promoting compliance with the Code of Conduct, as required,
7. Group Leaders to meet with the Standards Committee on an annual basis (at the first meeting of the Standards Committee) following the Annual Meeting,
8. . Group Leaders to meet with the Monitoring Officer on a three-monthly basis and Chair of Standards Committee once during the Council year.

## Promoting Compliance With the Code of Conduct

Report by:			
Political Group:			
No. of members:		No. trained on Code:	
For the period:			
Complaints Status			
1. Group Leaders to make themselves available to meet with the Monitoring Officer, Chair of the Standards Committee and Standards Committee as required,			
2. Group Leaders to take steps to support the Monitoring Officer to arrange that Members within their group make themselves available to meet with the Monitoring Officer as required,			
3. Group Leaders to take steps with the aim that Members within their group cooperate with the Monitoring Officer and the Standards Committee when an issue is referred to the Monitoring Officer and or the Standards Committee,			
4. Group Leaders to record any areas of concern in their Groups and raise them with the Monitoring Officer in a timely manner.			
5. Group leaders to support Member attendance at mandatory training events,			
6. Group Leaders to complete the Group Leader proforma, promoting compliance with the Code of Conduct, as required,			
7. Group Leaders to meet with the Standards Committee on an annual basis (at the first meeting of the Standards Committee) following the Annual Meeting,			
8. Group Leaders to meet with the Monitoring Officer on a three-monthly basis and Chair of Standards Committee Once during the Council year.			

# Agenda Item 6

<b>Committee:</b>	<b>The Standards Committee</b>
<b>Date:</b>	<b>19 February 2024</b>
<b>Title:</b>	<b>Allegations against members</b>
<b>Author:</b>	<b>Siôn Huws, Propriety and Elections Manager</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**

2.1 Summaries of the decisions received from the Ombudsman are attached as an **Appendix**.

## **4. Recommendation**

3.1 The Committee is asked to note the information.



**Decision issued under paragraph 69(2) of the  
Local Government Act 2000  
Case Number: 202205952**

## Summary of complaint

It was alleged that the Member has undertaken a sustained Social Media hate campaign against the complainant since 2017. The complainant said that the Member's brother had threatened him because he had written to the Council, and this has been addressed by the Police. The complainant says others have witnessed the behaviour, but he has not indicated what has been witnessed, nor provided statements. Therefore, I cannot consider whether, even if proven, it would amount to a breach of the Code of Conduct. It is also of note that the alleged witnesses are linked to the Council and are aware of the Code of Conduct process. It is open to them to make a complaint if they consider it appropriate to do so.

## What we do

In determining whether to investigate a breach of the Code, the Ombudsman applies a two-stage test. The first stage is a consideration of whether there is evidence to suggest that a breach of the Code may have occurred. The second stage is a consideration of whether it is in the public interest to undertake an investigation of the matters complained about. This involves the consideration of a number of public interest factors such as the seriousness of the alleged behaviour, whether the member misused a position of trust or has sought to gain, for themselves or others, at public expense, whether an investigation is required to maintain public confidence in elected members, whether an investigation is proportionate in the circumstances or whether, if proven, a referral to a Standards Committee or the Adjudication Panel for Wales would be appropriate.

## My Decision

### **(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.**

Evidence has not been provided to substantiate the complaint, and the Ombudsman will not investigate unless there is reasonably strong evidence to suggest that the member concerned has breached the Code.

It should also be noted that the actions of the Member's brother cannot be considered by the Ombudsman and the appropriate body to consider complaints of that nature is the Police.

### **(2) Whether an investigation is required in the public interest**

As no evidence has been provided, of a breach of the Code of Conduct, an investigation is not required.

## Outcome

The complaint should not be investigated.



**Sinead Cook**

Rheolwr Ymchwilio Cynorthwyol/Assistant Investigation Manager

4 January 2023



**Decision issued under paragraph 69(2)  
of the Local Government Act 2000  
Case Number: 202306169**

### **Summary of complaint**

It was alleged that in a Council meeting, the Member responded to a question asked by Councillor X in a way which was unnecessary, troublesome, abusive and undermined him. It states the Member then belittled Councillor X and showed him disrespect using terms such as “extreme right-wing” and “toxic politics” purposefully damaging Councillor X’s reputation.

The member chose to self-refer the matter to the Ombudsman for consideration instead of proceeding through the Council’s Local Resolution.

### **How we decide whether to investigate**

To decide whether to investigate a breach of the Code, we apply a 2-stage test. First, we consider whether there is evidence to suggest that a breach of the Code may have occurred. Second, we consider whether it is in the public interest to investigate the matters complained about. We take into account a number of public interest factors such as:

- the seriousness of the alleged behaviour
- whether the member misused a position of trust or has sought to gain, for themselves or others, at public expense
- whether an investigation is required to maintain public confidence in elected members

- whether an investigation is proportionate in the circumstances or whether, if proven, a referral to a Standards Committee or the Adjudication Panel for Wales would be appropriate.

## My Decision

### **(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.**

The matters which complained about are unlikely to amount to a breach of the Code.

When acting as an elected member and expressing political views or conducting political business, a member's freedom of expression is afforded enhanced protection, more so than an ordinary member of the public. Further, as politicians, members are likely to be afforded protection even where the language used by them may be inflammatory, provided the focus of it is political. However, a member's right to freedom of expression is not absolute and must be balanced against the need to protect the rights and interests of others. The legal principles on this issue do not provide clear boundaries for what is, and what is not, acceptable, and each case must be considered on its own merits. Freedom of expression is not limitless and the more offensive the conduct concerned, the more justified it becomes to restrict expression using the provisions of the Code.

The self-referral acknowledges that the comments were made during a meeting of the Council. The Ombudsman generally concludes that during political exchanges, members need a "thicker skin". Article 10 of the European Convention on Human Rights, which affords the Member the right to free speech, means that he can say things which may be shocking or offensive to some people. Whilst I fully appreciate that those present may have been personally offended by the Member's comments, I do not consider on the evidence provided that they are sufficiently egregious, intimidating or insulting to amount to a breach of the Code.

However, I acknowledge that the comments made had the potential to offend the Member concerned, especially if they did not reflect his political ideals. The Member also made comments when self-referring the matter

to this office as to why he did not feel he could engage with the Council's local resolution process. This is concerning because the efficient performance of a council relies on mutual respect and good working relationships between its members, and the local resolution process would have been a suitable forum for discussing these types of concerns. My response to the Member will undertake to remind him of this and his obligations under the Code.


## **(2) Whether an investigation is required in the public interest**

I am not persuaded that the content would be considered so offensive that restriction on making such comments is necessary for the protection of the rights and interests of others. Therefore, I am satisfied that the comments made, form part of a wider political debate and the Member is entitled to hold and share those views, even if others do not agree, or indeed, are offended by them. Therefore, I consider that an investigation into this matter would not be appropriate.

The conduct complained about does not meet the first stage of the test, as set out above, therefore, there is no need to consider the second stage of the test.

## **Outcome**

The complaint should not be investigated.



**Matthew Phelps**  
Swyddog Ymchwilio/Investigation Officer

6 December 2023

<b>Committee :</b>	<b>Standards Committee</b>
<b>Date :</b>	<b>19 February 2024</b>
<b>Title :</b>	<b>Adjudication Panel for Wales – Annual Report 2022- 2023</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 the 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 2022 – 2023

PDC / APW

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# Foreword

This is my eighth and final report as President of the Adjudication Panel for Wales (“APW”). The report covers the period 1 April 2022 – 31 March 2023.

We aim to ensure that the Panel serves the public interest by dealing with any disputes both efficiently and effectively. We make every effort to ensure that all those involved in the dispute feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We are conscious that the public must have confidence that any breaches of the Code of Conduct will be dealt with fairly in order to uphold trust and confidence in local democracy.

This past year has continued to be a comparatively busy one for the APW; it is though too soon to identify whether the duties on group leaders of councils will result in fewer allegations that the Code of Conduct has been breached, or if there is a long-term trend of increased difficulties.

I have always been of the view that leadership of any court or tribunal is an immense privilege and honour, but it is often best to be time limited to ensure new ways of working or new ideas to refresh and strengthen the judicial body. I hope that I brought to the APW such freshness; my aim was to modernise and develop our practices, approach and judgement. I believe that aim has been achieved. I have in various forums discussed the changes I would wish to see in our powers and Regulations, and am pleased to note the Welsh Government consultation on these issues following the Penn Review on the Ethical framework. I was also grateful to hear from many users how helpful they have found the updated Sanctions Guidance. However, all things must come to an end; I intend to step down from the APW in the coming financial year. This will continue the development of its practice and procedures, which will be critical if the Welsh Government does create the First Tier Tribunal for Wales.

I wish the new President of the APW all the best in their challenging but exciting role. I pay tribute to the members of the APW, both current and past, the Registrars, and my predecessor as President, the late Peter J Davies. During my period of service, there have been a wide variety of cases resolved by the APW; some have seen unexpected developments, allegations that the APW is not independent (countered by the support shown by the First Ministers, Counsels General and members of both the Senedd Cymru and relevant authorities), and the determination of the most contentious and complex matters. There were the challenges presented by the Covid-19 global pandemic to contend with in addition. Throughout it all, the members of the APW followed the excellent example of my predecessor and delivered just and fair decisions, explaining why each tribunal had reached its judgment and on occasions why it was necessary to interfere with the decision of the voters to elect the individual in question. As I write this report, none have been successfully appealed. I could have asked no more from the members of the APW or administration, but they consistently have over-delivered through their support to me and their kindness (an often over-looked virtue) shown to all users.

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. I have no doubt that my successor, whoever they are, will be as interested in hearing from interested parties as I have been.

**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.

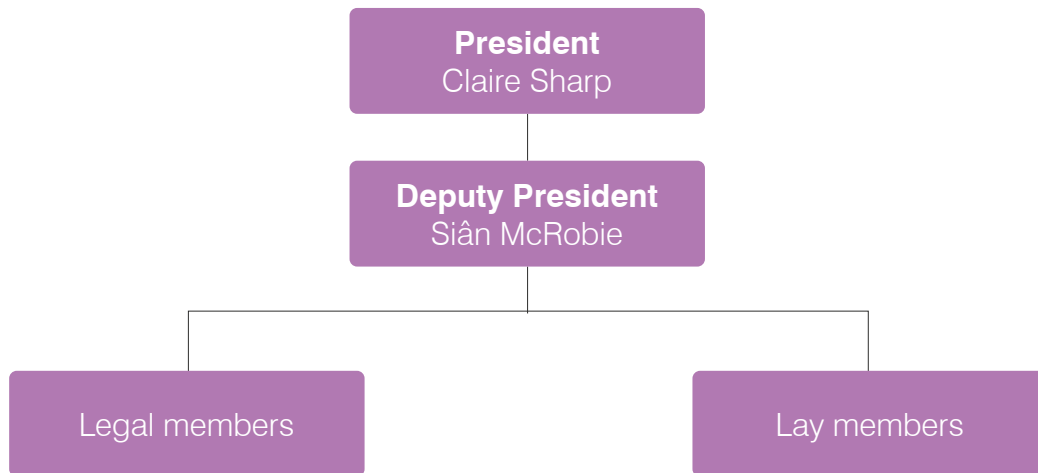
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

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 6.

## 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 administration 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 1 new lay member.

## Training

A training seminar was held on **13 May 2022**, with a continued emphasis on judgecraft, together with case law updates and a review of procedural matters.

## Contacting the APW

To contact the APW Administration:

APW Address: Registrar to the Panel  
Adjudication Panel for Wales  
Welsh Tribunals Unit  
PO BOX 100  
Llandrindod Wells  
LD1 9BW

APW Telephone Helpline: 03000 259805  
APW E-mail: [adjudication.panel@gov.wales](mailto:adjudication.panel@gov.wales)

## 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

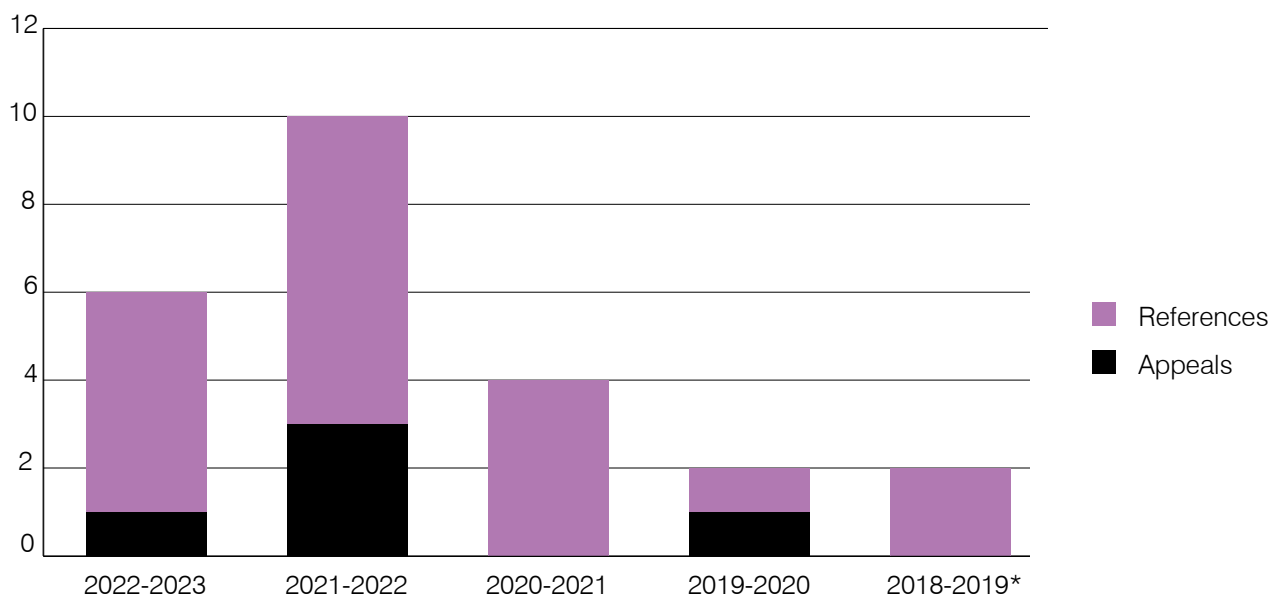
### Numbers and Statistics

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 April 2018 – March 2023



\* The 2018-2019 figure was incorrectly detailed in the 2018-2019 Annual Report which has been corrected above.

Graph 2.2: Number of references and appeals decided by year April 2018 – March 2023

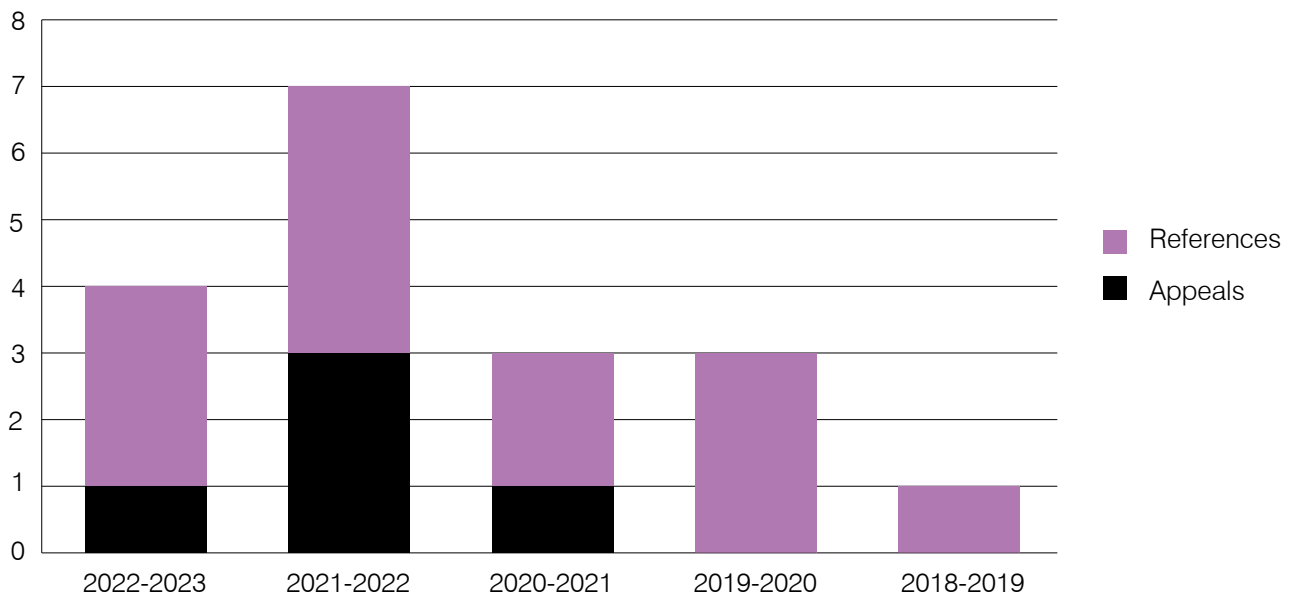
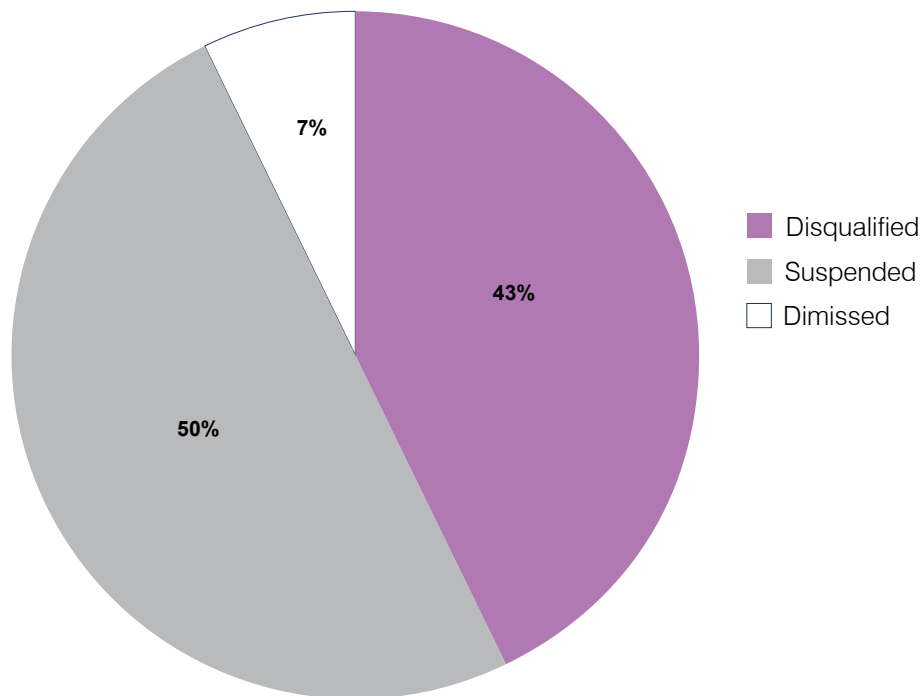
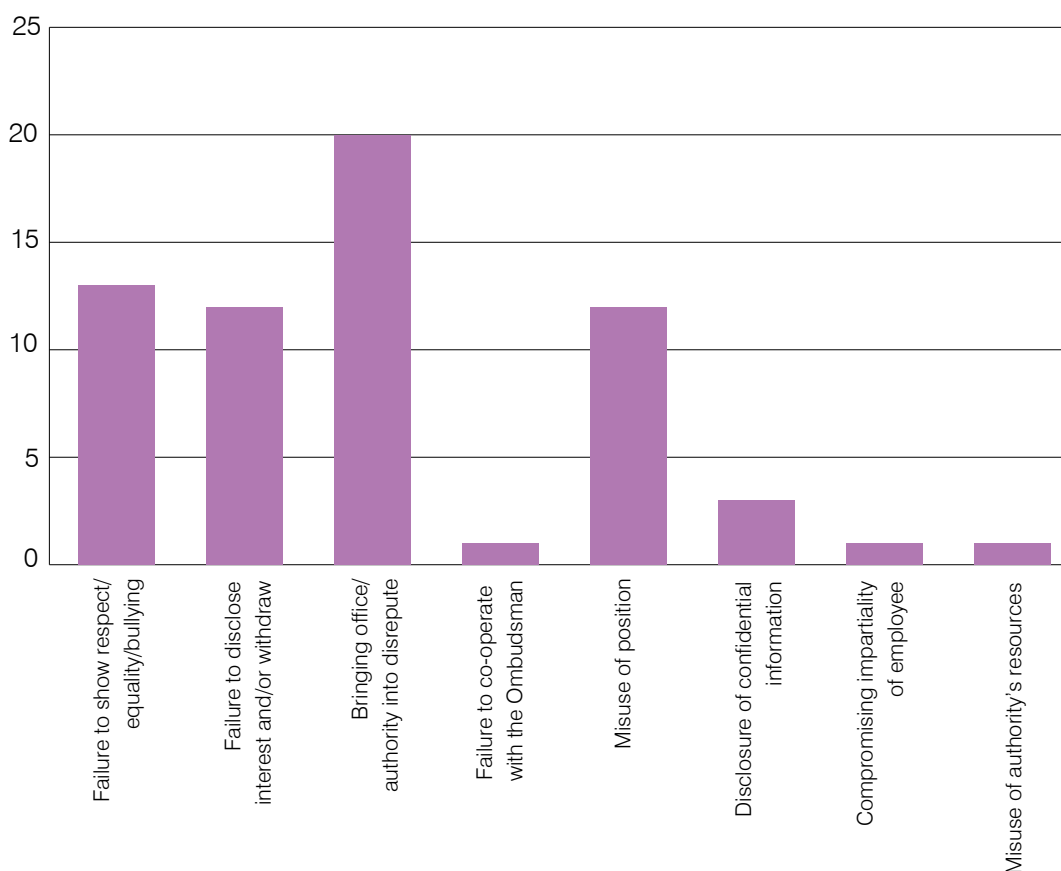


Chart 2.3: Outcomes of references and appeals April 2018 – March 2023

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 2018 – March 2023



### Hearings data

During 2022-2023:

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

4 listing conferences 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.

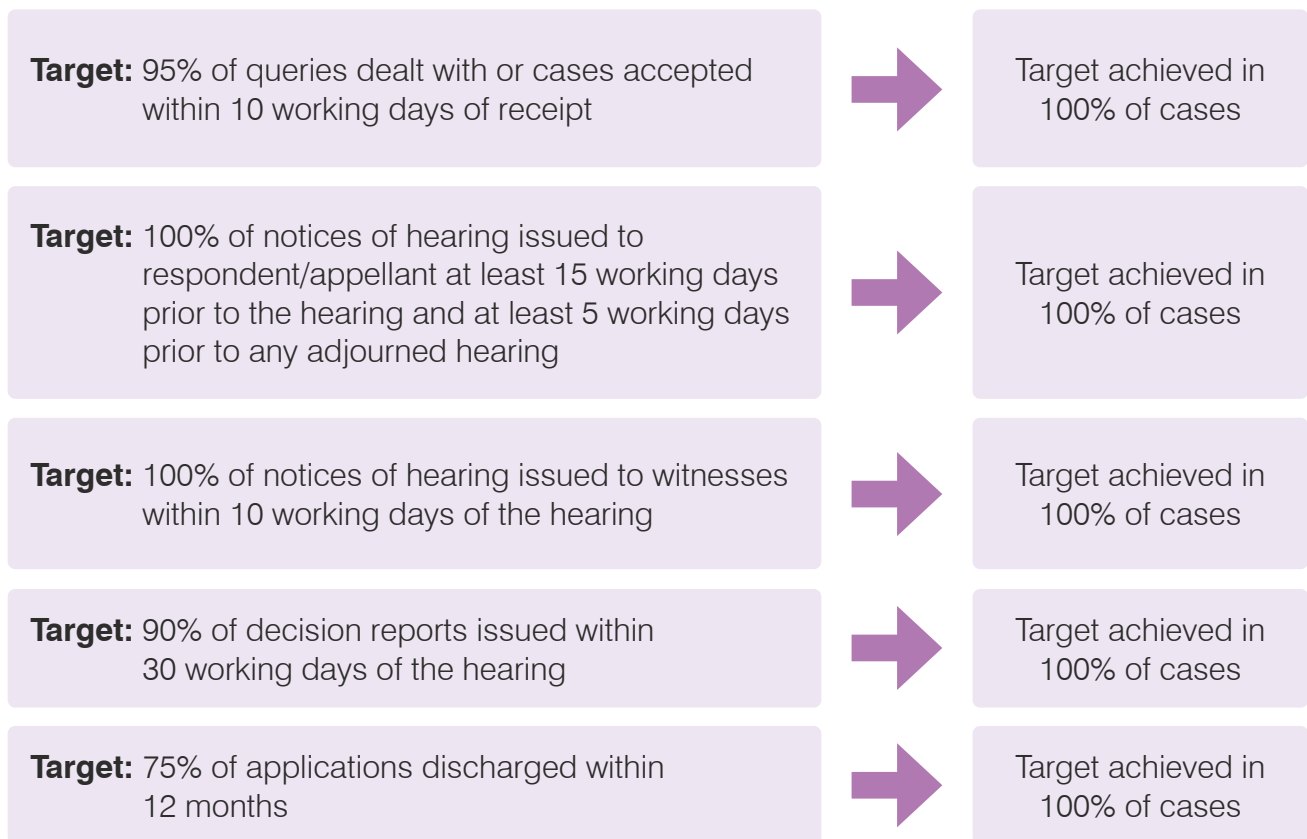


## Achievement against key performance indicators

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).

### Speed of our service 2022-2023



## Complaints

The APW received and concluded 0 formal complaint during the reporting period.

## Section 3 – Case summaries

In this section:

- References
- Appeals

### References

[APW/008/2021-022/CT](#)

[Pembrokeshire County Council](#)

The allegations arose out of three separate complaints and were that the former councillor had breached the Code of Conduct of Pembrokeshire County Council by bullying or harassing individuals and conducting himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute. The case tribunal unanimously found that the former councillor had acted as alleged by the Public Services Ombudsman for Wales (“PSOW”).

The former councillor was found to have repeatedly made false statements about another councillor and members of the public. In doing so, he was found to have bullied the other councillor, harassed a member of the public, and brought both his office and the relevant authority into disrepute.

The former councillor was also found to have posted online misinformation about the Welsh Government’s Relationships and Sex Education curriculum, which he then repeated in an email to a fellow councillor. The case tribunal found that there was no basis for these statements about the curriculum and in saying that there was, the former councillor wilfully and dishonestly misinformed people to outrage them; this brought his office and/or the relevant authority into disrepute.

The former councillor was found to have falsely and maliciously suggested on Facebook that another member of the public was subject to registration because he was a sex offender. He then falsified evidence given to the PSOW in a deliberate attempt to mislead the investigation. This brought his office and/or the relevant authority into disrepute. The case tribunal unanimously concluded that the former councillor should be disqualified for three years from being or becoming a member of a relevant authority.

[APW/009/2021-022/CT](#)

[Llansantffraed Community Council](#)

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute. The case tribunal declined to consider whether she had failed to report any conduct by another member or anyone who works for, or on behalf of, the authority which she reasonably believed involved or was likely to involve criminal behaviour on the basis that paragraph 6(1)(b) did not include a requirement to report a councillor’s own criminal behaviour.

The former councillor was involved in an incident with a contractor for the council, in which she drove her car at speed on private land at him while he was undertaking his duties. Her car struck two minors during the incident; at least one suffered bodily harm. The former councillor continued in her role as a Councillor after the incident and after pleading guilty to the offence of causing bodily harm by wanton and furious driving contrary to Section 35 of the Offences against the Person Act 1861; neither her fellow councillors nor the Clerk reported the matter to the PSOW. She was given a suspended sentence of 10 weeks' imprisonment, which fell short of automatic disqualification.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting herself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority. In addition, it recommended that all current councillors of Llansantffraed Community Council attended training on the Code of Conduct within a period of three months (to be provided by the Monitoring Officer, her delegate, One Voice Wales or any other appropriate provider) to ensure that they understand the Code of Conduct, including paragraph 6(1)(b); and that the Council considered requiring the attendance at such training by the Clerk to the Council.

As at the time of writing this report, it appears the Council has not complied with the recommendations in the timescale required. The Public Services Ombudsman Service is responsible for reporting on compliance.

APW/0010/2021-022/CT  
Pencoed Town Council

The allegations were that the former councillor had conducted himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute.

The former councillor was found to have misled the Town Council as to his eligibility to be a Councillor and that this was deliberately or recklessly undertaken both when signing the declaration of acceptance of office and during the 1 year and 8 months that he acted as a Councillor. The former councillor was not eligible to be a councillor having been convicted of three criminal offences in July 2015. He had received a suspended prison sentence exceeding three months, without the option for a fine. This meant that he was not eligible to be a councillor when he stood for election in 2018 and his declaration that he was eligible was false.

The Case Tribunal determined that an individual who is disqualified for being a Member was nevertheless subject to the Code of Conduct when continuing to act in that capacity. It found unanimously that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)) by standing and remaining in office when disqualified.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for two years from being or becoming a member of a relevant authority.

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute, had used or attempted to use her position improperly to confer on or secure for herself or her husband an advantage or create or avoid for herself or her husband a disadvantage, attended a council meeting at which business in which she had a personal interest was and failed to disclose orally the existence and nature of that interest before or at the commencement of that consideration or when the interest became apparent, failed to withdraw from a meeting in which business in which she had a prejudicial interest was considered, sought to influence a decision about business in which she had a prejudicial interest, and made oral representations to a meeting considering business in which she had a prejudicial interest.

The former councillor was married to the Chair of the Community Council. Audit Wales carried out an investigation into the Council and produced a report critical of the Chair (criticism of others was also made). The former councillor admitted to deliberately not declaring her personal and prejudicial interest due to her relationship with the Chair of the Council when attending and speaking as a councillor at two meetings of the Council about the report, or when she voted at one meeting. She said that she acted in such a way as she wanted to be able to defend her husband as “her husband came first” when there was a conflict between him and her public duties as a councillor.

The Case Tribunal found by unanimous decision that the former councillor had failed to comply with the Code of Conduct as follows:

- 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 personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent (paragraph 11(1));
- 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 –
  - (a) withdraw from the room, chamber or place where a meeting considering business is being held...”(paragraph 14(1)(a)); ...
  - (c) not seek to influence a decision about that business (paragraph 14(1)(c)); ...
  - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

The Case Tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority.

## Appeals

APW/012/2022-023-AT

Wrexham County Borough Council & Brymbo Community Council

Permission to appeal was refused by the President of the Adjudication Panel for Wales on the basis that the councillor had failed to submit his application within the statutory time limit.

## Section 4 – Business Priorities

In this section:

- Business priorities for 2022-2023

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 2022-2023

- Plan and deliver an all-members training event;
- Continue to deliver an effective and efficient service, meeting key performance indicators;
- Appoint a new President of the Adjudication Panel for Wales;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, and the Welsh Government White Paper in response, action any changes as required by the legislature.

## Section 5 – Expenditure

In this section:

- Expenditure for 2022-2023

### Expenditure for 2022-2023

Content	Amount
Members Fees and Expenses (proceedings and training)	£30,210
Tribunal events (hearing and other costs)	£5,416
<b>Total</b>	<b>£35,626</b>

Rounded to the nearest £1