



County Hall
Rhadyr
Usk
NP15 1GA

3rd March 2014

Notice of meeting:

**Standards Committee
Friday 7th March 2014 at 10.30am
Council Chamber, County Hall, Rhadyr, Usk, NP15 1GA**

Agenda

Item No	Item
1.	Apologies for absence.
2.	Declarations of Interest
3.	To confirm and sign the minutes of the meeting held on 13 th January 2014 (copy attached).
4.	To receive for information: <ul style="list-style-type: none">i) IRPW supplementary report on Co-optees (Copy Attached)ii) APW Annual Report 2012-13 (Copy attached)
5.	To consider whether to exclude the press and public from the meeting during consideration of the following item of business in accordance with Section 100A of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 12 of Part 4 of Schedule 12A to the Act.
6.	To consider applications for the Community Committee member and to draw up a shortlist for interview as appropriate (application forms to follow).
7.	To note the date and time of next meeting: Monday 9 th June 2014 – 10.30am

**Paul Matthews
Chief Executive**

Standards Committee Membership

Independent Representatives: Mrs P Reeves (Vice Chairman), Mr T.Auld, Mr.G.Powell, Mr. G. Preece, Mr. M. Sutton

Councillors: County Councillor D.J.Evans
County Councillor R. P. Jordan
County Councillor D.L.Edwards

Community Representative: Vacancy

Connecting with people

Our outcomes

The Council has agreed five whole population outcomes. These are *People in Monmouthshire will*:

- Live safely and are protected from harm
- Live healthy and fulfilled lives
- Benefit from education, training and skills development
- Benefit from an economy which is prosperous and supports enterprise and sustainable growth
- Benefit from an environment that is diverse, vibrant and sustainable

Our priorities

- Schools
- Protection of vulnerable people
- Supporting enterprise, job creation and entrepreneurship

Values

- * **Openness:** we aspire to be open and honest to develop trusting relationships.
- * **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- * **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- * **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

**Minutes of a meeting of the Standards Committee held at County Hall, Usk,
on Monday 13th January 2014 at 9.30 a.m.**

PRESENT:

Mrs P Reeves (Chairman)
County Councillor D. Evans

INDEPENDENT REPRESENTATIVES:

Mr G Powell, Mr. M. Sutton and Mr G. Preece

OFFICERS PRESENT:

Mr. S.M.W. Andrews- Monitoring Officer
Mr. R. Tranter – Deputy Monitoring Officer
Mr. R. Williams - Democratic Services Officer

1. ONE MINUTE'S SILENCE

The Chairman informed the Committee that Mr. David Hedley, Community Committee member of the Standards Committee, had recently passed away. She therefore asked members to stand for a minute's silence as a mark of respect.

2. APOLOGIES FOR ABSENCE

Apologies were received from County Councillor R.P. Jordan and Mr. T. Auld.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES

We resolved that the minutes of the meeting held on 3rd October 2013 be confirmed as a correct record and signed by the Chairman.

In doing so, the Monitoring Officer stated that a training session had been established for Town Councillor Julia Haskey in November 2013. However, Town Councillor Haskey was unable to attend that training session but the Monitoring Officer was able to deliver suitable training to Ms. Haskey last week.

5. GUIDANCE ON GIFTS AND HOSPITALITY REGISTER FOR MEMBERS

We received a report by the Monitoring Officer and foreword from the Committee Chair regarding a draft guidance on the Gifts and Hospitality Register for Members.

The Monitoring Officer provided the Committee with the following issues to consider:

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- If a Member is offered a gift valued in excess of £25 but declines it, should the Member still register that he / she had been offered the gift but had declined the offer?
- The Register of Interests is available for public inspection. The view of the Information Commissioner has been sought as to whether the publication of the register on-line would breach any of the data protection principles. To date, the Information Commissioner's view has yet to be received.

We resolved to approve the draft guidance and foreword with the following amendments:

- The final paragraph of the foreword to be reworded to indicate that the guidance was for Members' protection.
- The Gifts and Hospitality Guidance for Members and Co-opted Members, Point 6 – Procedure for Declaring Gifts and Hospitality over £25 in Value, paragraph 4, should be in bold with additional wording to indicate that this was for the Members' protection.

6. MEMBER PROTOCOL FOR SELF-REGULATION

We received a report by the Monitoring Officer regarding Member Protocol for Self-Regulation.

We reviewed the operation of the protocol for self-regulation as set out in the appendices to the report.

We resolved that the Monitoring Officer reports to Council that the Standards Committee has reviewed and endorses the report on Member Protocol for Self-Regulation.

7. PROTOCOL ON MEMBER / OFFICER RELATIONS

We reviewed the report by the Monitoring Officer regarding the protocol on Member / Officer Relations agreed by the Council on the recommendation of the Standards Committee in February 2009.

The Monitoring Officer informed the Committee that the County Council was engaged generally on a review of its consultation following the production of a model constitution under the auspices of Monitoring Officers across Wales and funded by the Welsh Local Government Association.

The current protocol on Member / Officer relations has been in place since 2009.

A significant advantage in considering the adoption of the new protocol was that potentially it was a document that could be adopted across Wales and offer a degree of consistency in dealing with this aspect of Local Authorities' ethical framework.

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We resolved that, as part of the overall review of the Council's constitution, the new model protocol on member / officer relations should replace, or inform a review of the existing protocol.

8. FAMILY ABSENCE FOR MEMBERS

We received a report by the Monitoring Officer and were informed that the Family Absence for Members of Local Authorities (Wales) Regulations 2013, "(the Regulations)" made under Part 2 of the Local Government (Wales) Measure 2011 ("the Measure") require the Council to make Standing Orders as soon as practicable to give effect to the prescribed conditions to be satisfied to meet the entitlement to absence set out in the regulations.

The Committee was informed that the report would be presented to Council on 16th January 2014 for consideration.

Having received the report the following points were discussed:

- It was suggested that Members should notify their respective Group Leaders if they intend to be away from their Council duties for more than six months.
- All reports presented to Council and Cabinet are subject to an Eqia assessment.
- A report was likely to be presented to the Democratic Services Committee for further consideration in respect of the matters set out in paragraph 3.4.

We resolved to receive the report and note its content and acknowledged that the report would be presented to Council on 16th January 2014.

9. URGENT ITEM OF BUSINESS

The Chairman agreed to consider the following urgent item of business as the matter would not be dealt with in time if it was considered at the next ordinary meeting of Standards Committee.

10. REQUEST FOR DISPENSATION

The Monitoring Officer informed the Committee that Chepstow Town Councillor Ned Heywood had requested the Standards Committee to consider his request for dispensation for him to speak at an emergency meeting of Chepstow Town Council on 15th January 2014 to consider the following motions:

Chepstow Museum, having considered the financial information provided and the funding request of Monmouthshire County Council for the following budgetary contribution: 2014/2015 £10,000; 2015/2016 £25,000; and, 2016/2017 £45,000, the Service Devolution Working Party recommends:

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That Chepstow Town Council contributes an additional £10,000 towards the cost of Chepstow Museum in 2014 / 2015 in order to safeguard the operation of Chepstow Museum for the next financial year, during which time the Town Council requests that Monmouthshire County Council makes available clear and comprehensive financial and operational information available to the Town Council in order that the Town Council may make informed decisions regarding future years funding for Chepstow Museum. The Town Council also notes that the level of on-going financial support required by the Museum will be influenced by the potential development of Trust status.

Chepstow Tourist Information Service, having considered the financial information provided and the funding request of Monmouthshire County Council for a budgetary contribution of £47,000 in 2014/2015, the Service Devolution Working Party recommends:-

That Chepstow Town Council contributes £25,000 towards the cost of Chepstow Tourist Information Service in 2014/2015, conditional on the service being operated from the existing premises. During the next financial year the Town Council requests: (a) that Monmouthshire County Council review the accounting practice whereby the whole cost of the Business Development Officer post is charged to the Chepstow Tourist Information Service; and, (b) makes available clear and comprehensive financial and operational information available to the Town Council in order that the Town Council may make informed decisions regarding future years funding for Chepstow Tourist Information Service.

Town Councillor Heywood's partner is the curator of Chepstow Museum. However, the Town Councillor had indicated that he would like to speak at this meeting and also vote, should it be necessary, in respect of the motion relating to Chepstow Museum.

The Monitoring Officer provided the Committee with the following options:

- Paragraph 14(ii) of the Code of Conduct would allow Town Councillor Heywood to speak but not vote in respect of this matter.
- The Committee could grant Councillor Heywood dispensation to speak and vote on the matter.
- The Committee could refuse to grant Town Councillor Heywood with a dispensation to speak and vote and allow the remainder of the Town Council to determine this matter.

Having considered the options it was considered that there were no appropriate grounds on which to grant a dispensation to Town Councillor Heywood.

We therefore resolved not to grant a dispensation to Town Councillor Heywood.

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11. DATE AND TIME OF NEXT MEETING

The Monitoring Officer informed the Committee that there were no current pending investigations and that there would be very few items to present to the Committee at the next meeting.

We therefore resolved that, for the time being, the next meeting would be held at County Hall, Usk on Monday 3rd March 2014, but the commencement time of the meeting would be changed from 2.00pm to 2.30pm to accommodate members of the Committee attending Planning Committee Site Inspections that were being held on that day. However, if the status quo remains and no further business is received two weeks before the date of the meeting, then the meeting would be cancelled.

The meeting ended at 11.05am



To :

Leaders and Chief Executives of County and County Borough Councils

Chairs and Chief Executives of National Park Authorities

Chairs and Clerks of Fire and Rescue Authorities

Leader and Chief Executive of the Welsh Local Government Association

Heads of Democratic/Member Services of County and County Borough Councils, National Park and Fire and Rescue Authorities

SUPPLEMENTARY REPORT IN RESPECT OF PAYMENTS TO CO-OPTED MEMBERS OF LOCAL AUTHORITIES IN WALES

1. This constitutes a Supplementary Report of the Independent Remuneration Panel for Wales (the Panel) in accordance with Section 147 of the Local Government Measure (Wales) 2011 (the Measure). It relates to payments made to co-opted members of Principal Authorities, National Park Authorities and Fire and Rescue Authorities, who have the right to vote.
2. During a 10 week period, from March to June 2013 the Panel visited each of the 28 authorities and issues were raised in respect of payments to co-opted members. The Panel considers that there are matters that need to be rectified and that this should be actioned in advance of the next Annual Report which will not take effect until Spring 2014.
3. These issues are:
 - i) Recognising that the preparation for meetings can be very time consuming but the current Remuneration Framework does not allow this time to be included for payment.
 - ii) While co-opted members are entitled to claim travelling expenses, the Framework does not indicate whether travelling time to and from meetings can be counted in the assessment of whether a meeting is a full day or half day for payment purposes.
 - iii) Several co-opted members expressed concerns that they were not made aware, in advance whether meetings were scheduled for a half day or a full day. This created difficulties for planning their diaries, particularly if the individual member had other work related activities to be planned. It was suggested that the Monitoring Officer (or other relevant officer) could be authorised to set the appropriate fee in advance having determined the likely time required to deal with the agenda.
 - iv) There was a lack of clarity over what constituted a "meeting". The Panel was asked to consider whether it includes other committees or working groups (including task & finish groups) that co-opted members are requested to attend.

A draft Supplementary Report was issued on the 1st August 2013 and the Panel has examined the responses received. The majority were in favour of the proposed determinations contained in the draft Report.

4. The Panel has decided:

Determinations

- i) Reasonable time for pre meeting preparation is eligible to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.
 - ii) Travelling time to and from the place of the meeting can be included in the claims for payments made by co-opted members (up to the maximum of the daily rate).
 - iii) The appropriate officer within the authority can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.
 - iv) Meetings eligible for the payment of fee include other committees and working groups (including task and finish groups) or any other formal meeting to which co-opted members are requested to attend. (pre meetings with officers, training and attendance at conferences are already eligible for payment).
5. These determinations will take effect on the 1st January 2014.

Yours sincerely



Richard Penn

Chair

Adjudication Panel for Wales

Annual Report



2012 – 2013

Foreword

This report reviews the work of the Adjudication Panel for Wales during the financial year 2012-13.

During 2012-13, the Panel received 5 new referrals from the Public Services Ombudsman for Wales and 4 appeals against the decisions of local authority standards committees. A further 4 cases were carried over from 2011-12. A summary of the cases that were determined can be found in Section 3.

Although the numbers of new cases are still relatively low, the new members appointed in 2010 have now had an opportunity to sit on tribunal hearings. I believe that training and development of Panel Members is of prime importance and once again this has been an important part of the Panel's activities over the past year. In October the Adjudication Panel for Wales held its training seminar which, as well as providing useful updates and training on current issues, also gave the new members an opportunity to discuss their experiences with the original members.

The Welsh Government continues to progress the recommendations of the report of the Welsh Committee of the Administrative Justice and Tribunals Council following its *'Review of Tribunals Operating in Wales.'* The Panel's administration transferred to the Administrative Justice and Tribunals Unit within the Welsh Government on 1 April 2013. As part of the transfer I welcome Leon Mills as the new Registrar to the Panel replacing Stephen Phipps, who provided support over the transition period.

I take this opportunity to express my thanks to Stephen Phipps for the hard work and commitment he has shown the panel over his time with the Adjudication Panel. I also express my thanks to John Davies and Jason Plange for their time within the Support Unit and also to Carol Webber, whom left the Support Unit during the reporting period, for all the assistance they provided to the Adjudication Panel.



Finally, I hope you will find this report and the case summaries contained within it of interest. Once again, the report is being published via the Panel's website in order to save on printing costs.



J PETER DAVIES
President of the Panel



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1. Background

1.1 Local Government Act 2000

Part III of the Local Government Act 2000 (“the 2000 Act”) established a new framework to promote observance of consistent standards of conduct by local government members in England and Wales. In essence, the framework comprises:

- a set of ten general principles of conduct (derived from the “Seven Principles of Public Life”);
- separate statutory codes of conduct for members and officers;
- local standards committees to advise members and relevant authorities on standards of conduct;
- the investigation of alleged misconduct by members in Wales by the Public Services Ombudsman for Wales or local authority monitoring officers; and
- the adjudication of such investigations by local standards committees or, generally in more serious cases, the Adjudication Panel for Wales (“the Adjudication Panel”).

“Relevant authorities” under Part III of the 2000 Act in relation to Wales are county, county borough councils, community councils, fire and rescue authorities and national park authorities.

Police authorities in Wales were subject to separate principles and code of conduct prescribed by the UK Government. However, police authorities were abolished in November 2012 and have now been replaced by 4 Police and Crime Commissioners (PCCs) that cover Wales. The PCCs are overseen by the Police and Crime Panels which are formed to scrutinise the Commissioners decisions.



1.2 Principles of Conduct/Code of Conduct

Following commencement of the Government of Wales Act 2006, the Welsh Ministers are empowered under the 2000 Act to specify general principles of conduct and to make a model code of conduct for elected members and co-opted members with voting rights. The principles draw on the 'Seven Principles of Public Life' which were set out in Lord Nolan's report 'Standards of Conduct in Local Government in England, Scotland and Wales.'

The general principles are encapsulated in the current model code of conduct prescribed by the Welsh Government in 2008. All local government bodies in Wales – i.e. county and county borough councils, town and community councils, national park authorities and fire and rescue authorities – are required to adopt a code of conduct encompassing the provisions of the model code. All elected and co-opted members (with voting rights) must give a written undertaking to observe their authority's adopted code of conduct.

1.3 Role of the Public Services Ombudsman for Wales/ Standards Committees

Under the 2000 Act, any person may make a written allegation to the Public Services Ombudsman for Wales ("the Ombudsman") that an elected or co-opted member of a relevant authority in Wales has failed or may have failed, to comply with their authority's code of conduct.

Where the Ombudsman considers that an allegation warrants investigation the Ombudsman may arrange for the investigation to be undertaken by his/her office. Alternatively, the Ombudsman may refer the matter to the relevant monitoring officer for investigation and report to the local standards committee.

The Ombudsman may conclude upon investigation that there was no breach of the code or that no further action needs to be taken. However, where there is prima facie evidence of a breach of the code, the Ombudsman will produce a report on the completed investigation and send it either to the monitoring officer of the relevant authority concerned or to the President of the Adjudication Panel for Wales for final determination.



1.4 Role of the Adjudication Panel for Wales

The Adjudication Panel has two statutory functions:

- To form case or interim case tribunals to consider reports from the Ombudsman 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.

Case and Interim Case Tribunals

Where the Ombudsman sends a report to the President of the Adjudication Panel, a "case tribunal" formed from the Panel will be convened to consider the report, to receive evidence and to determine whether there has been a breach of the code of conduct.

If the tribunal determines that a failure to comply with an authority's code of conduct has occurred, it has powers to suspend, or partially suspend, a member for up to one year; or it can disqualify a member for up to five years.

Where a case tribunal decides that a person has failed to comply with an authority's code of conduct, that person may seek the permission of the High Court to appeal that decision, or any decision of the tribunal as regards the sanction imposed.

Where the Ombudsman considers it necessary in the public interest, the Ombudsman may make an interim report to the President of the Adjudication Panel recommending that a member be suspended while an investigation is ongoing. An interim case tribunal will decide whether the member should be suspended or partially suspended for up to six months.



Appeal Tribunals

Where the Ombudsman has referred the matter to a monitoring officer and the standards committee has determined that there has been a failure to comply with the code of conduct, the member concerned has a right of appeal to the Adjudication Panel. This right must be exercised within 21 days of the member's receipt of notification of the standards committee's determination. Where an appeal tribunal agrees that there has been a breach of the code, it may endorse the penalty set by the standards committee, or refer the matter back to the committee with a recommendation that a different penalty be imposed. An appeal tribunal can also overturn the determination of a standards committee that a member has breached the code of conduct.



2. Members of the Adjudication Panel for Wales

The current members of the Adjudication Panel are shown below. Between them, the members have a wide range of relevant knowledge and experience which they bring to the work of the Panel and its tribunals. They are located around Wales which facilitates the appointment of tribunals on a geographical basis.

The President, four legal members and one of the lay members are Welsh speakers.

President and Legal Members



2002-
2015

The President of the Adjudication Panel, **Mr J Peter Davies** runs his own legal practice in Cardiff specialising in civil and commercial litigation and, in particular, regulatory matters. He is a Deputy District Judge and chair of the Solicitors Disciplinary Tribunal.



2010-
2015

Ms Kate Berry is the former Solicitor and Monitoring Officer with the City and County of Cardiff. She has a background in private and public sector law and is a former town councillor in Nailsworth.



2010-
2015

Mrs Emma Boothroyd is currently an adjudicator with the Solicitors Regulation Authority. She has a background in private law.



2002-
2015

Mrs Helen Cole is a senior partner in a general practice in West Wales specialising in non-contentious private client work.





2010-
2015

Mr Gwyn Davies is a solicitor with experience in a range of legal jurisdictions in the private and public sectors. He is a former Chair of Neath, Port Talbot County Borough Council's Standards Committee.



2002-
2015

Mr Hywel James is a District Judge.

Lay Members



2010-
2015

Mr Andrew Bellamy is a non-executive Director with Estyn and peer reviewer with the Health Inspectorate Wales. He has a National Health Service background.



2002-
2015

Mr Ian Blair was County Surveyor with Powys County Council and has been an invited lecturer for the University of Wales, Aberystwyth. He was a former member of the Courts Board for Mid and West Wales.



2002-
2015

Cllr Colin Evans is a Labour councillor with Carmarthenshire County Council.





2010-
2015

Miss Susan Hurds is a lay member of the Employment Tribunals for England and Wales. She has a background in the National Health Service, latterly with the Ceredigion Local Health Board. She is also a Panel Chair of the Nursing and Midwifery Council.



2002-
2015

Mrs Christine Jones is a former member of Conwy County Borough Council. She is also a Board member with Cartrefi Conwy Housing Association.



2002-
2015

Ms Juliet Morris runs an organic farm business in Carmarthenshire. Previously, she worked in social and public sector policy for organisations including the Local Government Information Unit, the Wales Consumer Council and independent advice sector in Wales.



3. Allegations of Misconduct

3.1 Overview

In the period October 2002 to 31 March 2013, the Adjudication Panel made determinations on 44 references from the Ombudsman and 11 appeals against the decisions of a standards committee. Figures 1 to 3 give a breakdown of the outcomes of those determinations. A summary of the sanctions imposed is in the Annex to this report.

Figure 1: Case Tribunal decisions – October 2002 to March 2013

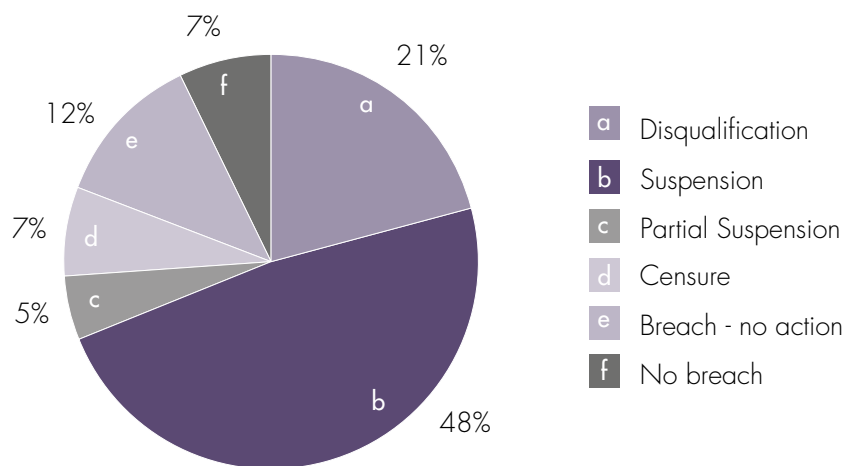


Figure 2: Appeal Tribunal decisions – October 2002 to March 2013

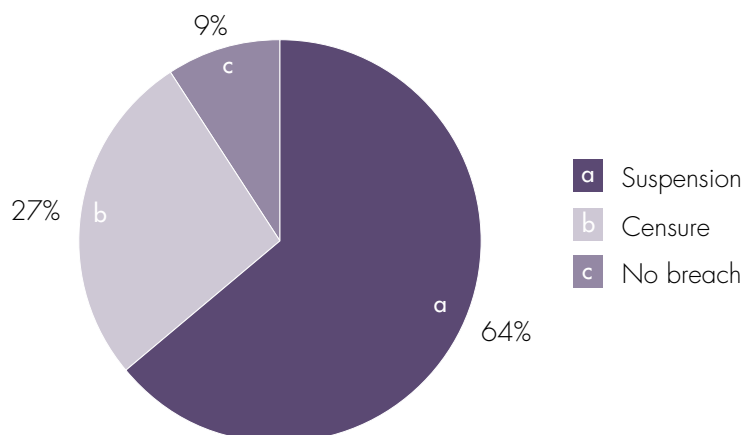
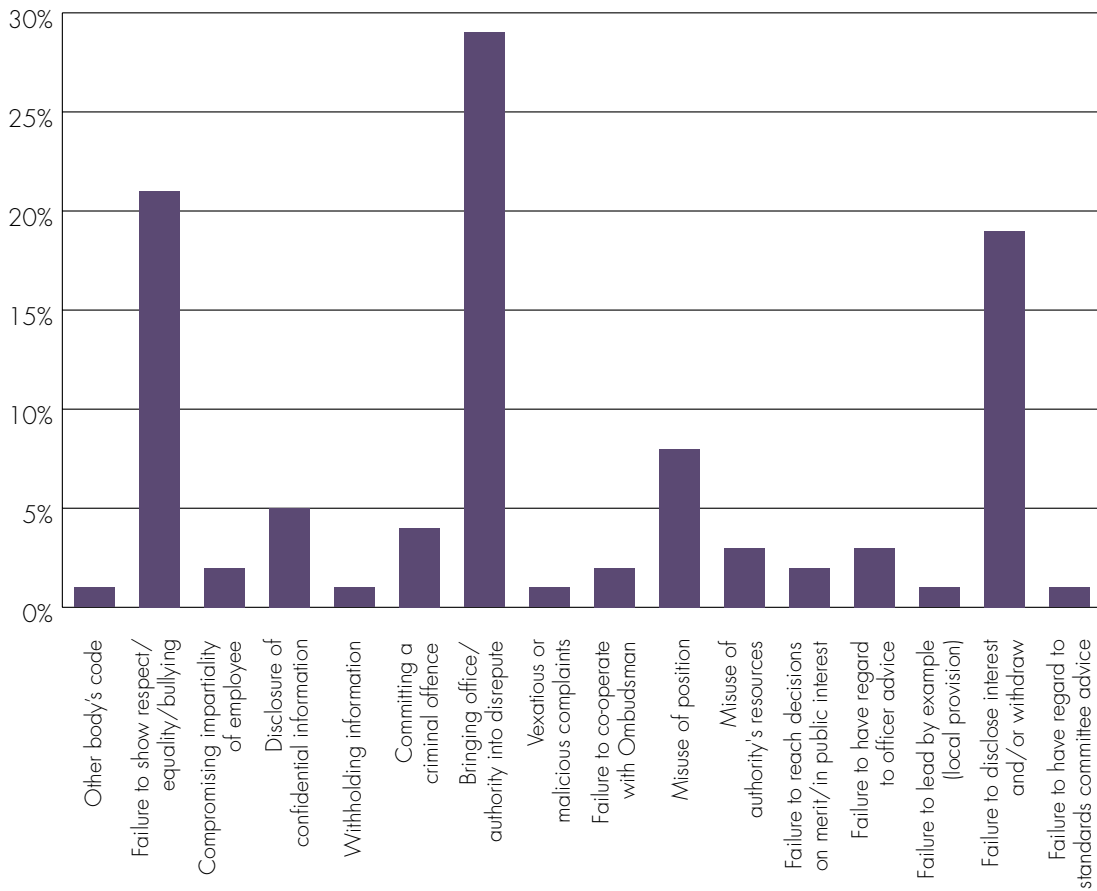


Figure 3: Breaches by type October 2002 to March 2013



3.2 Summary of Case Tribunals 2012 – 2013

The Public Services Ombudsman for Wales referred 5 cases to the Panel during 2012-13 and 4 cases were carried over from the previous year. Summaries of the 7 cases determined by the Panel during the year are below.

APW/002/2011-012/CT – Isle of Anglesey County Council

The referral concerned allegations that the councillor had breached the Council's code of conduct by making repeated personal attacks of an offensive nature against the then Director of Legal and Democratic Services and Monitoring Officer and the former Interim Managing Director and by making numerous requests for information thereby placing excessive demands and significant burden upon the Council's Corporate Information Officer.



Matters commented upon by the councillor were that when making the comments at the heart of the complaint made against him, the councillor was acting as a member of the council in bringing to light activities which he perceived as improper. He was discharging the duties placed upon him as an elected representative of the Isle of Anglesey County Council. By exposing the seemingly questionable practices of others he was actively contributing to the good governance of the area, effectively representing the interests of the electoral division concerned and was trying to ensure that the highest standard of conduct and ethics were maintained.

The tribunal found that the councillor, by his actions towards the then Director of Legal and Democratic Services, in particular the language used, failed to show respect and consideration and that his actions also amounted to bullying and harassment.

The tribunal found that as a more senior officer, the actions of the councillor did not amount to bullying or harassment of the Interim Managing Director. The tribunal did however find that making unfounded allegations in the public media that the Interim Director was dishonest and corrupt did fail to show respect and consideration in breach of paragraph 4(b) of the Code.

The tribunal found no breach in relation to his conduct towards the Information Officer. The Tribunal was satisfied that the councillor had made his requests perfectly properly and his letters to the Information Officer were appropriate in content and tone.

The tribunal also found that the councillor's actions amounted to a breach of 6(1)(a) of the code, in that the repeated unfounded allegations of a serious nature against senior officers of the council in public was bound to undermine the Authority and bring it into disrepute. In addition the language used by the councillor and the fact that the tribunal found his motives were not genuine further brought the office into disrepute.

The tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of the council for a period of 12 months.



APW/003/2011-012/CT, APW/005/2012-013/CT & APW/007/2012-013/CT – Coedpoeth Community Council

There were 3 separate referrals from the Ombudsman which were considered by a single tribunal.

The allegations were that the former councillor had breached the above Community Council's code of conduct by his behaviour and consequent arrest for a breach of the peace during a demonstration, failure to show respect and consideration to the Clerk of the Community Council, his behaviour, arrest, subsequent imprisonment and non-cooperation with the relevant authorities arising from a protest at a County Court and his lack of cooperation with the Ombudsman's investigation of these allegations.

In the absence of any proper or meaningful response by the former councillor the tribunal concluded by unanimous decision that the former councillor had, by his actions in breaching the code of conduct and in his unacceptable attitude to the investigation and general disregard to the code, demonstrated that he was unfit to hold public office and was unlikely to become fit over the next 5 years.

Accordingly the tribunal decided that the councillor be disqualified for 5 years from being or become a member of the community council or any other relevant authority.

APW/001/2012-013/CT – Llantrisant Community Council

The allegations were that the councillor had breached Llantrisant Community Council's code of conduct by posting unsubstantiated and highly offensive comments about a former neighbour on Facebook.

The councillor submitted that it was a private family matter and was never intended to be in the public domain. The councillor explained that she had acted on the spur of the moment and had posted the comments to defend her son. The councillor submitted that she never intended to cause anyone harm or distress and was acting as a mother not as a councillor.

The tribunal found that the councillor made 3 postings through her Facebook account and noted that the councillor's profile page makes reference to her position as a community councillor. The tribunal was satisfied that making such public postings without appropriate corroborative evidence was conduct which fell short of



that expected of an elected member. The tribunal considered that making offensive comments on a social networking site and the councillor's failure to take immediate steps to remove those comments was conduct which the tribunal considered brought the office of community councillor into disrepute.

The tribunal considered all the facts of the case and in particular the fact that this was an isolated incident which arose out of what should be a private family matter. The tribunal noted the excellent references received in support of the councillor and the work that she does in the community. The tribunal noted the effect that these proceedings had had on the councillor and the upset caused to the whole family. Nevertheless the tribunal were concerned that the councillor did not fully appreciate the seriousness of her actions. The tribunal took into account her refusal to apologise to the complainant and the fact she had not taken any positive steps to remove the comments. The tribunal took into account that the councillor believed her comments to have been true but nevertheless considered that her actions were inappropriate in the circumstances. The tribunal considered that the conviction in the Courts of a breach of Section 4 of the Public Order Act 1986 was a serious matter for a community councillor.

In all the circumstances the tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of Llantrisant Community Council for a period of 6 months or, if shorter, the remainder of her term of office. The tribunal considered that this sanction was necessary to reflect the serious nature of the misconduct and to uphold standards in public life. The tribunal considered that a period of suspension was appropriate in the circumstances of this case to give the councillor an opportunity to reflect on her actions. The tribunal considered that a 6 month period of suspension was proportionate in these circumstances.

APW/002/2012-013/CT – Merthyr Tydfil County Borough Council

The allegations were that the former councillor had breached Merthyr Tydfil County Borough Council's code of conduct by sending an email to all members of the Council in which he misrepresented the outcome of a previous tribunal hearing; by co-operating with the Merthyr Express to produce a story about his suspension; misrepresenting the decision of the tribunal when he wrote to the Merthyr Express; publishing a confidential letter and other similar material on his blog for which he had already been suspended by the Adjudication Panel; participating in a live



radio programme phone-in during which he misrepresented Council policies and failed to state that he was, at the time, suspended from the Council.

The tribunal found that the councillor had persistently and deliberately misrepresented his position as a councillor following his suspension by a previous tribunal, in emails, blogs letters and articles to the press and a radio phone-in in a 3 month period following the tribunal finding; deliberately and persistently misrepresented the findings of the previous tribunal; misrepresented the Council and its policies; and, despite the finding of the previous tribunal, had knowingly published confidential information and failed to seek advice from the appropriate authorities.

The tribunal concluded by unanimous decision that the former councillor should be disqualified for 3 years from being or becoming a member of Merthyr Tydfil County Borough Council or any other relevant authority within the meaning of the Local Government Act 2000, with immediate effect.

APW/004/2011-012/CT – Denbighshire County Council

The allegations were that the councillor had breached paragraphs 4(a), 4(b) and 6(1)(a) by on 2 separate occasions making inappropriate comments relating to Muslims, gypsies and travellers at meetings of the Corporate Equalities Group.

The tribunal found by unanimous decision with regard to both allegations that the former councillor had failed to comply with paragraph 4(b) of the council's code of conduct. The tribunal further found that the councillor did not breach paragraphs 4(a) and 6(1)(b).

The tribunal concluded that the former councillor's conduct merited a censure as it was not acceptable for any councillor to use language and express opinions in a way that would be inappropriate or offensive to others.



3.3 Summary of Appeal Tribunals 2012 – 2013

There was 1 appeal tribunal hearing during the reporting year.

APW/003/2012-013/A – Anglesey County Council

An appeal was received against the decision of Anglesey County Council's standards committee that the councillor had breached the Council's code of conduct and should be suspended for a period of 6 months.

The allegations were that the councillor had breached paragraph 6(1)(a) of the Council's code of conduct as a consequence of receiving a criminal conviction for failing to declare his full income when applying for Incapacity Benefit, thereby bringing his office or authority into disrepute.

The tribunal found that it was clear that the councillor showed an unwillingness to be frank and showed a reluctance to provide full and accurate disclosure of information to those investigating the allegation unless and until pressed to do so.

The tribunal found that it was significant that the councillor appeared to have been unwilling or unable to learn any lessons from the fact that he was prosecuted in the Magistrates Court on criminal charges because of a failure to make full disclosure of his circumstances when making a claim for benefits. If the councillor had learned from that experience he should have realised that, in cooperating with the subsequent investigation by the Ombudsman and his appearance before the standards committee, it was the councillor's duty to provide full, carefully checked and accurate information so that there could be no possibility of misunderstanding and any doubts about his integrity could be assuaged.

It was also incumbent on him to act in a way that members of the public and fellow councillors would consider to be exemplary, notwithstanding his criminal conviction. Instead his conduct had engendered doubts about his sincerity and the level of his contrition.

It was also clear from the evidence that inaccurate or misleading information was provided by the councillor to the Ombudsman and to the standards committee. That standards committee was of the view that there was a perceived pattern of behaviour relating to a failure or unwillingness to provide full information.



The tribunal was satisfied that the standards committee gave the councillor every opportunity to substantiate his mitigation during the standards committee hearing. The tribunal was satisfied that appropriate credit was given by the standards committee for the mitigation put forward by the councillor, but that the mitigation was outweighed by other factors of the case including the councillor's credibility. The tribunal was satisfied that the standards committee applied due proportionality having regard to all the facts in deciding on the sanction that should be applied to the councillor.

The tribunal accordingly decided by unanimous decision to endorse the decision of the Isle of Anglesey County Council's standards committee, that the councillor should be suspended for 6 months.

3.4 Ongoing Cases

At September 2013, the Adjudication Panel had determined 2 cases in the current financial year and a further 3 were on going. These cover a range of potential breaches, such as failing to show respect, attempting to misuse their position as a member, intimidating and bullying behaviour towards council employees, making unsubstantiated public allegations about officers.

Further information on completed cases can be found in tribunal decision reports which are published on the Panel's website: www.adjudicationpanelwales.org.uk



4. Overview of Procedures

The work of the Adjudication Panel for Wales is governed by Part III of the Local Government Act 2000 and subordinate legislation made by the National Assembly for Wales/Welsh Ministers and the UK Government (the latter in relation to police authorities).

The overriding aim of the Adjudication Panel is to ensure that all parties are able to have their cases presented and to have them considered as fully and fairly as possible.

Tribunals will normally comprise a legally qualified chairperson, plus two others. This may be varied at the President of the Adjudication Panel's discretion.

Tribunal hearings will normally be held in public except where the tribunal considers that publicity would prejudice the interests of justice, or where the respondent or appellant agrees that the allegations may be dealt with by way of written representatives. There may be other reasons from time to time for not holding a hearing, or part of a hearing, in public.

Hearings will usually take place in the relevant authority's area where suitable accommodation is available. Hearing arrangements take account of any special requirements of those attending, such as wheelchair access, interpreter, hearing assistance etc.

A simultaneous translation service is provided for those who wish a tribunal hearing to be conducted in Welsh.

The person who is the subject of the allegations is entitled to give evidence, to call witnesses, to question any witnesses and to address the tribunal on matters pertinent to allegations under consideration.

Details of tribunal hearings and their outcome are published on the Panel's web-site and in the local press as appropriate.



There is a right to seek the permission of the High Court to appeal the decision of interim case tribunals and case tribunals established by the Adjudication Panel. There is no right of appeal against the decisions of appeal tribunals, but, as a public body, the Adjudication Panel and its tribunals are subject to judicial review where appropriate.

Further information on tribunal procedures can be found on the Adjudication Panel's web-site.



5. Support Unit

The Adjudication Panel is supported by:

Leon Mills, Registrar to the Panel

The Panel's address is:

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Web-site: www.adjudicationpanelwales.org.uk



Annex

Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2013

Sanction	Period	No of decisions
Case and Appeal Tribunals		
Disqualification	5 years	1
	3 years	2
	2 years 6 months	1
	2 years	1
	1 year 6 months	1
	1 year	3
	Suspension	12 months
	9 months	3
	6 months	7
	4 months	1
	3 months	2
	2 months	4
	1 month	3
Partial Suspension	3 months	1
	7 weeks	1
Censure	-	6
Breach – no action	-	5
No breach	-	4
Withdrawn	-	2



Appeals	
Breach of code upheld/dismissed	10 (91%)/1 (9%)
Sanction endorsed	8
Different sanction recommended	1 increase/1 decrease
Not accepted <ul style="list-style-type: none"> • Out of time • Not in jurisdiction 	1 1



**SCHEDULE 12A LOCAL GOVERNMENT ACT 1972
EXEMPTION FROM DISCLOSURE OF DOCUMENTS**

REPORT: Applications for Community Committee Member
AUTHOR: Monitoring Officer
MEETING: Standards Committee
DATE OF MEETING: 7 March 2014

I have considered grounds for exemption of information contained in the report referred to above and make the following recommendation to the Proper Officer:-

Exemptions applying to the report:

Information relating to a particular individual (Paragraph 12 Schedule 12A LGA 1972)

Factors in favour of disclosure:

Openness and transparency in appointments to a public body

Prejudice which would result if the information were disclosed:

This is a shortlisting meeting and the disclosure of personal information in particular relating to unsuccessful candidates may inhibit the number of applications for this post in future. Applicants have not been advised that application forms may be made available to the public at this stage

My view on the public interest test is as follows:

Factors in favour of withholding this information outweigh those in favour of disclosure.

Recommended decision on exemption from disclosure:


Maintain the exemption

Date: 28 February 2014

Signed: 

Post: Monitoring Officer

I accept/do not accept the recommendation made above.



Proper Officer

Date: 3/3/14