

# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Dydd Gwener, 30 Medi 2022

## Notice of meeting

### Pwyllgor safonau

Dydd Llun, 10fed Hydref, 2022 at 10.00 am,  
Conference Room - Usk, NP15 1AD

### AGENDA

| Item No | Item   | Pages         |
|---------|--|---------------|
| 1.      | Ethol Cadeirydd  |               |
| 2.      | Penodi Is-gadeirydd  |               |
| 3.      | Ymddiheuriadau am Absenoldeb                               |               |
| 4.      | Datganiadau o Fuddiant                                     |               |
| 5.      | Cofnodion y Cyfarfod Blaenorol                             | 1 - 6         |
| 6.      | Cod Ymddygiad a Llywodraethwyr Ysgol                       | Verbal Report |
| 7.      | Adolygiad o'r Fframwaith Safonau Moesegol (Adroddiad Penn) | 7 - 64        |
| 8.      | Adroddiad Blynyddol a Chyfrifon PSOW 2021-22               | 65 - 212      |
| 9.      | Llythyr Blynyddol PSOW at Gyngor Sir Fynwy                 | 213 - 222     |
| 10.     | Adroddiad Blynyddol APW 2021-22                            | 223 - 240     |
| 11.     | Hyfforddiant Cod Ymddygiad 2022-23                         | Verbal Report |
| 12.     | Dyddiad cyfarfod nesaf 6 Chwefror 2023                     |               |

**Paul Matthews**  
Chief Executive



MONMOUTHSHIRE COUNTY COUNCIL  
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillors:

R. Stow (Independent Member)  
R Williams-Flew  
P. Easy  
M. Gibson  
I. Cameron (Community Committee Member)  
Frances Taylor

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# Aims and Values of Monmouthshire County Council

## Our purpose

Building Sustainable and Resilient Communities

### Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

## Our Values

**Openness.** We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

**Fairness.** We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

**Flexibility.** We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

**Teamwork.** We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

**Kindness:** We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.





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# Public Document Pack Agenda Item 5

## MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Standards Committee held  
at County Hall, Rhadyr, Usk - Remote Attendance  
on Monday, 21st March, 2022 at 10.00 am**

**PRESENT:** R. Stow (Independent Member) (Chair)

R. Williams-Flew (Independent Member)  
P. Easy (Independent Member)  
M. Gibson (Independent Member)  
I. Cameron (Community Committee Member)

### **OFFICERS IN ATTENDANCE:**

|                  |  |
|------------------|--|
| Matt Phillips    | Chief Officer People and Governance and Monitoring Officer |
| Joanne Chase     | Solicitor and Deputy Monitoring Officer                    |
| Ben Davies       | Solicitor and Deputy Monitoring Officer                    |
| Richard Williams | Democratic Services Officer                                |

### **APOLOGIES:**

County Councillors: D. Evans and S. Woodhouse

#### **1. Opening comments from the Chair**

The Chair welcomed Marion Gibson to her first meeting as an Independent Member of the Standards Committee and thanked the Committee members who participated in the interview panel and the Deputy Monitoring Officers for managing the recruitment process.

#### **2. Declarations of Interest**

None received.

#### **3. Confirmation of Minutes**

The minutes of the Standards Committee meeting dated 18<sup>th</sup> October 2021 were approved as an accurate record.

#### **4. Review of the ethical standards framework**

We received a verbal update by the Chief Officer People and Governance and Monitoring Officer regarding the review of the Ethical Standards Framework. In doing so, the following points were noted:

- Feedback regarding the online Standards Conference held on 9<sup>th</sup> February 2022 was received.
- The Richard Penn report into the Ethical Standards Framework was the predominant item discussed at the conference.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at County Hall, Rhadyr, Usk - Remote Attendance on Monday, 21st March, 2022 at 10.00 am

- There was a focus on training in the Code of Conduct and it had been raised that this had not been mandated as a piece of training, in particular for community councils.
- The Penn report did not address the issue of mandating training with an outright recommendation.
- The Penn report concluded that there is a good Ethical Standards Framework with a recommendation that there should be a form of local resolution established to facilitate prior to complaints being submitted to the Public Services Ombudsman for Wales.
- The Standards Conference was well attended and supported. At the conclusion of the conference there was a call to support the Penn Report with a caveat that there would be a further request for standards committees to feedback their views on the Penn Report.
- The Welsh Government representative had confirmed at the conference that there would be no legislative changes before May 2022.
- It was noted at the conference by the Ombudsman that the proposals if implemented would mean that conduct complaints would be dealt with in the same way as services complaints. Concern was expressed that this would reduce independence in standards regulation and was a step towards the system being operated in England.
- Welsh Government had confirmed that Feedback from standards Committees would be welcomed. The Chair had therefore drafted the one-page response to be submitted to Welsh Government, as agreed at the October 2021 Standards Committee meeting (attached to the agenda).

The Standards Committee supported the Chair's one-page response (outlined in the agenda) which identifies three major issues to be submitted to Welsh Government as an initial submission. A formal detailed response can also be submitted in due course in which mandatory training can be further discussed for all community councillors as well as enhanced training for community council chairs.

The initial submission will also be submitted to the Public Services Ombudsman Wales (PSOW) with a request for data relating to the number of complaints received regarding community council conduct.

#### **5. Code of conduct training**

We received a verbal update by the Chief Officer People and Governance and Monitoring Officer regarding the Code of Conduct training undertaken during the Covid-19 pandemic and details of induction training for councillors from May 2022. In doing so the following points were noted:

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at County Hall, Rhadyr, Usk - Remote Attendance on Monday, 21st March, 2022 at 10.00 am

- Community Council training had been provided by the Monitoring Officer for Goetre Fawr, Mathern and Shirenewton Communities Councils in January and February 2021.
- By 6<sup>th</sup> April 2022 the list of nominations for the County and Community Council elections will be known.
- The elections will be held on 5<sup>th</sup> May 2022.
- The initial welcome by the Chief Executive and the Strategic Leadership Team will be held on 10<sup>th</sup> May 2022.
- On 12<sup>th</sup> May 2022 the Code of Conduct training will be delivered. This will be a hybrid offer. However, it is anticipated that the majority of Members will be attending County Hall, Usk, for the training. Standards Committee members will also be invited to attend the Code of Conduct Training.
- In May / June 2022 induction training will be implemented.
- In autumn 2022 more in depth training will be provided.
- The Annual General Meeting of the County Council will be held on 17<sup>th</sup> May 2022 in which ceremonial duties will be undertaken. This meeting will then be adjourned to the 19<sup>th</sup> May 2022 whereby the main duties of the Council will be undertaken.

We noted the verbal update on the Code of Conduct training.

#### **6. Local Government and Elections (Wales) Act 2021**

We received a verbal update by the Chief Officer People and Governance and Monitoring Officer regarding the Local Government and Elections (Wales) Act 2021. In particular, s62 (duties of political group leaders) and s63 (standards committee annual report). In doing so the following points were noted:

- S62 and S63 will come into force on 5<sup>th</sup> May 2022.
- The first Standards Committee annual report to County Council will be presented in May 2023.
- Group leaders have been requested to provide comment on the Act.
- The Monitoring Officer stated that he would give further consideration to the consultation.
- Standards Committee has a further eight weeks to submit a response by 16<sup>th</sup> May 2022.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at County Hall, Rhadyr, Usk - Remote Attendance on Monday, 21st March, 2022 at 10.00 am

- Members of the Standards Committee could respond to the consultation on an individual basis. However, the Committee would wait for the final version before responding.

#### **7. Discussion on the Planning code of practice / conduct**

We received a verbal update by the Chief Officer People and Governance and Monitoring Officer regarding the Planning Code of Practice / Conduct. In doing so the following points were noted:

- Paragraph 2.1, second bullet point should be removed in its entirety and the paragraph below it.
- The Monitoring officer will liaise with the Head of Planning regarding the same wording which is also identified in paragraphs 3.3 and 3.4 with a view to deciding whether this wording should be removed in these paragraphs.
- Section 25 of the Localism Act 2011 – closed mind. It was noted that County Councillors who sit on Monmouthshire County Council's Planning Committee and are also town or community councillors tend to withdraw from discussion on a planning application at their town / community council meeting, though legally they are not required to. This allows them to attend and take part in the debate and voting at the County Council Planning Committee meeting without having developed a closed mind on the application in question.
- The issue of public perception will be further addressed via Members' training, going forward.

We noted the verbal update and the points raised.

#### **8. Discussion on APW annual report 2020-21**

We received a verbal update by the Chief Officer People and Governance and Monitoring Officer regarding the Adjudication Panel for Wales (APW) annual report 2020-21.

We noted the verbal update.

In response to a question raised regarding complaints received, the following information was noted:

167 complaints received for town / community councils in the year 2020/21.  
135 complaints received for town / community councils in the year 2019/20.

138 complaints received for principal councils in the year 2020/21.  
96 complaints received for principal councils in the year 2019/20.

## **MONMOUTHSHIRE COUNTY COUNCIL**

### **Minutes of the meeting of Standards Committee held at County Hall, Rhadyr, Usk - Remote Attendance on Monday, 21st March, 2022 at 10.00 am**

#### **9. Next Meeting**

Monday 10th October 2022 at 10.00am.

The Chair informed the Committee that Irene Cameron (Community Committee Member) and County Councillor David Evans are not standing for re-election on 5<sup>th</sup> May 2022. This was therefore their last meeting as members of the Standards Committee.

On behalf of the Standards Committee, the Chair thanked both members for their valuable contributions during their time on the Committee.

**The meeting ended at 11.45 am.**

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## Independent Review of the Ethical Standards Framework in Wales

**Richard Penn**  
**Independent Consultant**

**July 2021**

## Table of contents

|    |   |    |
|----|---|----|
| 1. | Executive summary   | 3  |
| 2. | Background and methodology  | 10 |
| 3. | The current ethical standards framework for local government in Wales | 15 |
| 4. | My findings   | 28 |
| 5. | Conclusions and recommendations                                       | 42 |

# 1 Executive summary

- 1.1 In March 2021 the then Minister for Housing and Local Government announced her intention to commission an independent review of the ethical standards framework for local government in Wales that was established by the Local Government Act 2000 and which has remained largely unchanged to ensure that it remains fit for purpose, is open and transparent, and that it commands the confidence of all involved with the framework. I was commissioned to undertake this review with the aim to report to Welsh Government Ministers by the end of June 2021. The intention is for any agreed changes to be made ahead of the local government elections in May 2022.
- 1.2 The review was to include:
- an audit of the Codes of Conduct adopted by authorities;
  - an analysis of the effectiveness of the framework in fostering high standards of conduct in local government and public confidence in those arrangements;
  - whether the framework is still fit for purpose;
  - the role of Standards Committees;
  - an analysis of the arrangements and protocols in place to support members and staff;
  - consideration of the current sanctions and whether they are still appropriate.
- 1.3 It was seen to be essential to ensure the local government family in Wales was fully involved in the review and informed the outcome and met with many of those individuals and representatives of organization most involved in delivering the ethical standards framework in Wales, and this report, its findings and its recommendations are largely based on the views and experience of those individuals and organisations.
- 1.4 The key question for all those I met with was - how can ethical standards in local government in Wales be enhanced, and on a practical point how can the number of complaints be reduced?
- 1.5 The overwhelming consensus is that the current framework is 'fit for purpose', works well in practice and viewed by many as far superior to that currently used in English local government. However, it is also clear that with some minor adjustments and amendments to the current framework this could result in a lower number of low level complaints made and the need for formal investigations being significantly reduced. The outcome of this first phase of the review builds on the positive elements of the framework while strengthening those areas where it is considered improvements could be made. The already high ethical standards in Welsh local government would be further enhanced as a result.

1.6 My key findings and recommendations for change are detailed in Section 5 of this report and are summarised below:

- ***An audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances***

With only one exception (a County Council) the Model Code of Conduct has been adopted without significant variations or additions. However, over one half have adopted a local resolution procedure or protocol supplementary to the Model Code, and over one half also have a mandatory training requirement, again not as part of the Code itself but supplementary to it. In the other authorities this is an expectation rather than being mandatory.

- ***An analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements***

The framework generally, and the requirements of the Code of Conduct in particular, has been instrumental in fostering the high standards of conduct that are evident in local government in Wales. However, there are concerns about the continuing and recently increasing volume of complaints about the conduct of members of Community Councils. Adjustments and amendments to the current framework requiring mandatory training on the Code for all members and the greater use of local resolution procedures should result in the number of the mostly low level complaints that are made and the need for formal investigations that are required into allegations that there has been a breach of the Code being significantly reduced, and this would result in the already high ethical standards in Welsh local government being further enhanced.

- ***Consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could/should be made to the current arrangements***

The consensus is that the current framework is fit for purpose and works well in practice. The ten principles of conduct are seen as relevant and the Model Code of Conduct is seen as generally appropriate and not in need of major revision. However, I have proposed a number of amendments to the Code:

- The Code does not specify any threshold for declarations of any gift, hospitality, material benefit or advantage. The threshold should be specified in the Code to ensure consistency across Wales.

- Members are required to include their home address in their Council's Register of Interests. There is agreement that the Code should not require Councillors to disclose their home address and that the Code should be amended appropriately.
- A 'person' is not defined either in the 2000 Local Government Act or in the Code. It is recommended that a clear definition of what is meant by a 'person' on the face of the legislation or in the Code would be beneficial.
- Paragraph 4a of the Code which requires that a member must:

*'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion'*

does not include all protected characteristics. The provision in the Code should be extended to include all nine protected characteristics under the Equality Act 2010.

- The potential for breaches of the Code as a result of the extensive and increasing use of social media is a matter of concern. The helpful guidance by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Code.
- 6(1)(b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. The Code should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct.

In addition to these proposed amendments to the Model Code of Conduct there are a number of other recommendations in respect of the current ethical standards framework in Wales:

- **Mandatory training on the Code of Conduct for all members of principal councils and community councils**

The simplest way to achieve universal mandatory training would be to include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they can act as a Councillor, in the same way that they are currently required to undertake to observe the Code of Conduct adopted by their authority. It may require legislation to amend the 2004 Order appropriately.

- **Increased use of local resolution of complaints**

The Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman. The consensus is that combined with mandatory training on the Code of Conduct for all Councillors this would speed up the complaints process and ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.

- **Extended powers for the Public Services Ombudsman for Wales**

Greater use of the Ombudsman's discretion for referral would be welcomed by Monitoring Officers and Chairs of Standards Committees. The extension of his power to refer complaints back for local resolution would be a beneficial change to the current framework.

- **Changes to the powers and processes of the Adjudication Panel for Wales**

- **Restricted reporting orders**

The Panel cannot control the reporting by the press about any case. The Panel President considers that the powers available to an Employment Tribunal - to impose a Restricted Reporting Order either until the end of proceedings or an extended Restricted Reporting Order - would be appropriate for all Panel Tribunals, and could be introduced either through legislation for all Welsh tribunals following the recent Law Commission Report or specifically for the Adjudication Panel for Wales.

- **Anonymity of witnesses**

The President can issue guidance to ensure consistency and transparency, but an express power to anonymise would be useful for both Case and Appeal Tribunals to ensure that there is legal underpinning. It is in the President's remit to add this power for Appeal Tribunals, but fresh legislation would be required for Case Tribunals.

- **Disclosure**

There is an issue about the disclosure of the unused material held by the Public Services Ombudsman and Monitoring Officers. It has been agreed to amend the Ombudsman's own process in this regard, with Presidential guidance/practice direction on both disclosure and the role of the Monitoring Officer generally.

- **Appeal Tribunal procedure**

The Panel President intends to ask for amendments to the Appeal Tribunal

procedure. The current Regulations require the Standards Committee to consider the Panel decision on the Appeal if it is different to the original decision. This is unpopular with Standards Committees as they feel bound by the Panel decision. The President is content with this as the Standards Committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

- **Case Tribunal procedure**

The Panel President considers that the Regulations are outdated and has proposed a number of amendments to make the Case Tribunal Procedure more efficient and fairer to witnesses.

- **Permission to appeal procedure**

Permission to appeal has to be sought from the President of the Panel. The President proposes minor amendments to make the process more balanced and sensible.

- **Sentencing powers**

The powers available to the Panel are limited and the President would like the ability to impose more varied sanctions as was the case with the former Adjudication Panel for England.

- **Interim Case Tribunals**

The Public Services Ombudsman has the power to make interim referrals to the Panel if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the Code of Conduct, the nature of which is likely to lead to disqualification. The threshold for meeting the legislative requirements for an interim referral is considered to be too high, but any change to these powers would require primary legislation by the Welsh Government. The proposal is that the whole process should be simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. This would be a relatively minor amendment to the current public interest test, but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.

- ***Consideration of the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints.***

- There is a need for consistency of approach and for the remit of the Standards Committee to be generally similar across Wales but that there is a need for the local Standards Committee to reflect the specifics of the situation for the principal council concerned. The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council.
- The Local Government and Elections (Wales) Act 2021 includes a number of provisions that have implications for the work of Standards Committees which will be expected to support the political leadership of the Council in maintaining high standards of conduct by the members of their group and to make an annual report to the authority on the discharge of its functions, its assessment of standards of conduct within the authority and any recommendations for improving standards.
- There is a need for training of members of Standards Committee, not only on the Model Code of Conduct but also on how to hold Hearings to ensure openness and fairness to the member complained of, to the complainant and to any witnesses.
- There should be an all-Wales Forum for Independent Chairs of Standards Committees and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees that would encourage consistency of approach and the adoption of best practice across Wales.
- The Public Services Ombudsman for Wales accepts the need for more reference back to Standards Committees when he declines to investigate complaints. Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant.
- There is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils. This is an issue that may be mitigated by a requirement for mandatory training of councillors and greater use of local resolution procedures, and guidance prepared by One Voice Wales and the Society of Local Council Clerks has been helpful in assisting Councils to avoid or tackle such behaviour, but it continues to be a serious problem.
- ***An analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and the approach to addressing concerns.***



The review has been very useful in indicating where there is the need for changes to the current arrangements to support members and staff – principally Standards Committees and Monitoring Officers – in preventing issues arising and needing being dealt with more effectively in a timely way without the need for investigation by the Public Services Ombudsman. The recommendations for changes to the current ethical standards framework are intended to assist in achieving that objective.

- ***Consideration of the current sanctions and whether they are still appropriate***

There was no view expressed during my review that these sanctions available to a Standards Committee are not proportionate or appropriate. However, there is support for the Adjudication Panel for Wales having the ability to impose more varied sanctions than is currently the case. The proposal is that the sanctions should be similar to those available to the former Adjudication Panel for England.

- **Accessibility of the ethical standards framework**

The ability of a member of the public to make a legitimate complaint about the conduct of an elected member in their area is constrained by the lack of publicity about the ethical standards framework and how the complaints procedure can be utilised. There is very helpful information and advice on the websites of the Public Services Ombudsman, the WLGA and One Voice Wales. However, a member of the public would have great difficulty in finding helpful information if they wished to complain, particularly if they do not have internet access, or have difficulty in accessing information because of various disabilities, or because they belong to a 'hard to reach group', or because of language problems. If the ethical standards framework is to be genuinely open, transparent and accessible to everyone, and if the objective is that the framework should command the confidence of everyone who may need to use it, then consideration needs to be given to how to ensure equality of access for everyone.

## **2 Background and methodology**

- 2.1 At a meeting of the Partnership Council for Wales on 1 March 2021 the then Minister for Housing and Local Government discussed a range of issues connected to the implementation of the Local Government and Elections (Wales) Act 2021. One of the issues discussed was her intention to commission an independent review of the ethical standards framework. Council Leaders agreed this was timely in light of the changes to the framework set out in the Act and the time which has elapsed since the framework was first established.
- 2.2 The ethical standards framework in Wales was established by the Local Government Act 2000 and has remained largely unchanged, though there have been a number of small modifications to improve the operation of the framework over the last twenty years. The subordinate legislation underpinning the framework was last reviewed and amended in 2016. The Model Code of Conduct, first introduced in 2001, was significantly recast in 2008 and further amended in 2016.
- 2.3 The Local Government and Elections (Wales) Act 2021 which received Royal Assent on 20 January 2021 has, at its core, the principles of democracy, diversity, transparency and accountability to the citizens of Wales. There are a number of provisions which are fundamental to greater transparency and openness between local Councils and communities, and the Act includes measures to combat bullying and harassment amongst elected members and Council staff.
- 2.4 Since the framework was established the Welsh Government has continuously set out its commitment to equality and diversity, including through the making of the Well-being of Future Generations Act 2015. Most recently the Government has published the Gender Equality Review and is currently consulting on its new Race Equality Action Plan.
- 2.5 It is with this new legislation and policies in mind that Welsh Government concluded that the ethical standards framework needed to be reviewed to ensure that it remains fit for purpose, is open and transparent, and that it commands the confidence of all involved with the framework.
- 2.6 In taking this work forward it was seen to be essential to ensure that the local government family in Wales is fully involved in the review and informs the outcome. This should include, but not exclusively, local government members (Principal and Community Councils), monitoring officers, standards committees, heads of democratic services, the Welsh Local Government Association (WLGA), Lawyers in Local Government, One Voice Wales, Society of Local Council Clerks, the Public Services Ombudsman for Wales and citizens/representative organisations. This involvement needed to be demonstrated as part of the outcome of this work.

2.7 The following were the key components of delivery:

- an audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances.
- an analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements.
- consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could / should be made to the current arrangements.
- consideration of the role of standards committees, including their role in relation to Community Councils and whether the establishment of sub-committees has any impact on the process of supporting Community Councils and dealing with complaints.
- an analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and authorities' approach to addressing concerns.
- consideration of the current sanctions and whether they are still appropriate.

2.8 The review will take place in two phases:

- The first phase involved engagement with partners to establish views about the process and operation of the framework including details of where the framework works well and whether there are areas which could be improved. The outcome of this first phase was to be a roadmap for building on the positive elements of the framework while strengthening those areas where it is considered improvements could be made. Options to bring the requirements of the Register of Interests provisions in the Model Code of Conduct Order in line with the policy of the Act to stop Councillors' addresses being published will also be explored as part of this work.
- Phase two of the work will focus on working with partners and stakeholders to deliver the necessary changes.

2.9 I am a former Chief Executive of two major local authorities in England, and amongst the other posts that I have held since returning home to Wales I was the first NAW Commissioner for Standards from 2000 to 2012.

- 2.10 I welcomed the opportunity lead this review and to collect the widest possible evidence about the strengths and weakness of the current ethical standards framework from those involved in the operation of the framework, how it might be improved and how the requirements of the recent legislation will be managed. The key question for all those I met with was - how can ethical standards in local government in Wales be enhanced, and on a practical point how can the number of complaints be reduced?
- 2.11 I was required to produce a report on the review with my findings, conclusions and any relevant recommendations.
- 2.12 I was referred initially to a range of documents in the public domain and in the course of my review I received a large number of other relevant documents, most of which are in the public domain but a number of which were submissions by individual consultees.
- 2.13 My investigation has included a review of all of these documents together with interviews with a wide range of stakeholders involved in the operation of the ethical standards framework in Wales.
- 2.14 I met with:

**Welsh Government officials**

Deputy Director, Local Government Democracy Division

Head of Democracy, Diversity and Remuneration Branch

Former Head of the Ethics and Regulations Team

Policy lead, Ethical Standards Framework

Head of Local Government Partnerships Policy

Local Government Partnerships Policy - Community Councils & Regulation

Head of Fire & Rescue Services Branch, Community Safety Division

Head of Landscape & Outdoor Recreation, Economy, Skills and Natural Resources

Head of Welsh Tribunals Unit

**Welsh Local Government Association**

Head of Policy (Improvement and Governance)

Policy and Improvement Officer (Democratic Services)

**One Voice Wales**

Chief Executive

Deputy Chief Executive and Resources Manager

**Society of Local Councils Clerks**

Wales Policy Liaison Officer

**Public Services Ombudsman for Wales**

Ombudsman

Director of Policy, Legal and Governance

**Adjudication Panel for Wales**

APW President

**Monitoring Officers**

Monitoring Officer of Caerphilly County Borough Council

Monitoring Officer of Cardiff Council

Monitoring Officer of Ceredigion County Council

Monitoring Officer of Conwy County Borough Council

Monitoring Officer of Denbighshire County Council

Monitoring Officer of Flintshire County Council

Monitoring Officer of Gwynedd Council

Monitoring Officer of Monmouthshire County Council

Monitoring Officer of Powys County Council

Monitoring Officer of Rhondda Cynon Taf County Borough Council (written submission)

Monitoring Officer of Vale of Glamorgan Council

Monitoring Officer of Wrexham County Borough Council

Meeting of Monitoring Officers Group

### **Fire and Rescue Authorities**

Monitoring Officer of South Wales Fire and Rescue Authority

### **National Park Authorities**

Monitoring Officer of Pembrokeshire Coast National Park Authority

### **Chairs of Standards Committees**

Mid and North Wales Forum for Chairs of Standards Committees

Chair of Cardiff Standards Committee

Chair of Rhondda Cynon Taff Standards Committee

Chair of Vale of Glamorgan Standards Committee

Chair of Mid and West Wales Fire and Rescue Authority Standards Committee

2.15 I thank all those that I interviewed as part of this review for their willingness to share with me openly and comprehensively their experience and their professional observations, opinions and conclusions about the operation of the ethical standards framework in Wales, and what needs to change to ensure that the framework is fit for purpose.

### 3 The current ethical standards framework for local government in Wales

3.1 Part III of the Local Government Act 2000 (the 2000 Act) sets out an ethical standards framework for local government in Wales. It created a power for the National Assembly for Wales to issue a Model Code of Conduct to apply to members and co-opted members of all relevant authorities in Wales (a county/county borough council; community council; fire and rescue authority; and a national park authority). This power was transferred to Welsh Ministers by the Government of Wales Act 2006. In 2008 (as amended on 1 April 2016), Welsh Ministers issued the current Model Code of Conduct which all relevant authorities are required to adopt.

3.2 **The Model Code of Conduct** sets out what is required of all elected members in respect of appropriate standards of conduct in public office. For example, the Code requires members to show respect and consideration for others and not to use bullying behaviour or to harass any person. Councillors must act objectively and in the public interest, having regard to the advice of officers, and they must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without express consent or unless required by law to do so.

3.2.1 The Local Government Act 2000 empowered the National Assembly to issue principles which those elected to relevant authorities must have regard to when undertaking their role. The Code of Conduct is based on these principles which are designed to promote the highest possible standards of conduct. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report 'Standards of Conduct in Local Government in England, Scotland and Wales'. Three more principles were added to these: '*a duty to uphold the law*', '*proper stewardship of the Council's resources*' and '*equality and respect for others*'. The current principles were set out in a statutory instrument (1. The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166))

3.2.2 Members elected to relevant authorities give generously of their time and commitment for the benefit of their communities. The 10 principles provide a framework for channelling that commitment in a way which will reflect well on the Councillor and their authority, and give the local community confidence in the way that the authority is governed.

3.2.3 The individual sections of the Code of Conduct are designed to support the implementation of the 10 Principles of Public Life as detailed below.

#### 1. *Selflessness*

*Members must act solely in the public interest. They must never use their position as members to improperly confer an advantage on, or to avoid a disadvantage for, themselves or to improperly confer an advantage or disadvantage on others.*

#### 2. *Honesty*

*Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.*

### 3. Integrity and propriety

*Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.*

### 4. Duty to uphold the law

*Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.*

### 5. Stewardship

*In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.*

### 6. Objectivity in decision-making

*In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.*

### 7. Equality and respect

*Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.*

### 8. Openness

*Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.*

### 9. Accountability

*Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.*

### 10. Leadership

*Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.*



3.2.4 The Principles are not part of the Model Code of Conduct and failure to comply with the Principles is not of itself indicative of a breach of the Code. However, it is likely that, for example, a failure to adhere to the Principle concerning 'equality and respect' would constitute a breach of the requirements of paragraphs 4(a) and 4(b) of the Code in respect of equality of opportunity and respect.

3.2.5 All relevant authorities in Wales were required to adopt the Code in its Model form in its entirety, but could make additions to the Code provided these were consistent with the Model Code. This was intended to give certainty both to elected members and to the public as to what standards are expected. It helps to ensure consistency throughout relevant authorities, avoiding confusion for those elected members who serve on more than one authority and for the general public.

3.2.6 All elected members, when they sign the Declaration of Acceptance of Office, confirm that they will comply with their Council's Code of Conduct. It is the member's personal responsibility to ensure that they understand their obligations under the Code and act in a way which shows that they are committed to meeting the high standards of conduct that are expected of them as a member. Ultimately, as a member, they are responsible for the decisions they take and can be held to account for them. However, this does not imply that they can take decisions which breach the Code or which are contrary to advice simply because the decision is theirs to take.

3.2.7 The Public Services Ombudsman for Wales has issued very helpful guidance to assist Councillors in deciding when the Code of Conduct applies to them:

- Conduct in public and private life

Members are entitled to privacy in their personal lives, and many of the provisions of the Code only apply when he or she is acting as an elected member or acting as a representative of the Council. However, as there may be circumstances in which a member's behaviour in private life can impact on the reputation and integrity of the Council, some of the provisions of the Code apply at all times. When reaching a decision as to whether the Code applies at a particular time the Ombudsman has regard to the particular circumstances and the nature of the conduct at that time.

- When does the Code apply?
  - whenever a member acts in an official capacity, including whenever they are conducting the business of their authority or acting, claiming to act, or give the impression that they are acting, in their official capacity as a member or as a representative of their authority.
  - at any time, if the member conducts themselves in a manner which could reasonably be regarded as bringing their office or their authority into disrepute or if they use or attempt to use their position to gain an advantage or avoid a disadvantage for themselves or any other person or if they misuse their authority's resources.

- where a member acts as a representative of their Council on another relevant authority, or any other body, they must, when acting for that other authority, comply with their Council's Code of Conduct. When nominated by their Council as a trustee of a charity they are obliged when acting as such to do so in the best interests of that charity, in accordance with charity law and with the guidance which has been produced by the Charity Commission.
- if a member is acting as a representative of his or her Council on another body, for example on an event committee, which does not have a Code of Conduct relating to its members, the member must comply with their Council's own Code unless it conflicts with any legal requirements that the other body has to comply with.
- if a member refers to them self as Councillor, the Code will apply. This applies in conversation, in writing, or in the use of electronic media. There has been a significant rise in complaints to the Ombudsman concerning the use of Facebook, blogs and Twitter. If the member refers to their role as a Councillor in any way or comments that they make are clearly related to that role then the Code will apply to any comments that are made there. Even if the member does not refer to their role as a Councillor, the comments may have the effect of bringing their office or authority into disrepute and could therefore breach paragraph 6(1)(a) of the Code. The Welsh Local Government Association has produced useful guidance on social media entitled 'Social Media: A Guide for Councillors'. The guidance aims to provide members with a clearer idea about how they can use social media, the possible pitfalls and how to avoid them.
- if a member is suspended from office for any reason, they must still observe those elements of the Code which apply, particularly as set out in paragraph 2(1)(d), while they are suspended.

3.3 The ethical standards framework in Wales is intended to promote high standards of conduct by Councillors. The **Standards Committees** of principal councils established under section 53 of the 2000 Act have a key role in this regard. They are made up of independent lay members together with elected members of the authority with an independent member as Chair.

3.3.1 The 'general functions' of a Standards Committee are:

- promoting and maintaining high standards of conduct by members of the authority;

and

- assisting members to observe the Code of Conduct adopted by the Council

3.3.2 A Standards Committee also has the following 'specific functions':

- advising the authority on the adoption or revision of a Code of Conduct;

- monitoring the operation of the Code of Conduct;

and

- advising, training or arranging training for members on matters relating to the Code of conduct.

3.3.3 Under other provisions of the 2000 Act, Standards Committees also consider applications by members for dispensation to participate in business for which they have a prejudicial interest. They consider and adjudicate on alleged breaches of the Code of Conduct following investigation by the Public Services Ombudsman or, less often, the relevant Monitoring Officer. Although there has been a tendency for some Committees to see the latter as their key role, their primary focus should be on proactive measures to support members of their Council to maintain appropriate standards of conduct and thereby avoid breaches of the Code. Standards Committees do this through a variety of means, such as working with political group leaders, attending and monitoring Council meetings and reporting annually to Councils on their activities and the standards of conduct within the authority.

3.3.4 The Standards Committee of a principal Council also exercises the above functions in respect of members of Town and Community Councils in its area. However, subject to consultation with those Councils in its area, a sub-committee may be established to undertake all the functions of a Standards Committee in relation to Community Councils. Standards Committees of principal Councils are required to assist members and co-opted members of Community Councils in their area to observe the Code of Conduct, and to arrange for advice and training to be provided. Whilst Community Councillors do not act on decision-making bodies such as Planning Committees they are called upon to take decisions on the allocation of funding from the Council's precept and to offer guidance, drawing on valuable local knowledge, to the County Council about the impact of planning applications. It is imperative that Community Council members are fully aware of the Code of Conduct and its implications for their decision-making and whether they should be involved in making a decision.

3.3.5 When a case is referred to a Standards Committee its role is to decide whether a member has breached the Code and whether a sanction should be imposed. Hearings are normally conducted in public unless there are valid reasons for not doing so to promote public confidence in standards in public life. Where a Standards Committee concludes that a member or co-opted member has failed to comply with the relevant Council's Code of Conduct, it may determine that:

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured which takes the form of a public rebuke,

or

- the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding six months or if shorter, the remainder of the member's term of office.

3.3.6 A member subject to a sanction may seek the permission of the President of the Adjudication Panel for Wales to appeal against the determination of a Standards Committee

3.4 **The Public Services Ombudsman** for Wales has powers to investigate allegations that individual Councillors in Wales have failed to comply with their Council's Member Code of Conduct. A complaint about a failure to comply with the Code of Conduct must be made direct to the Ombudsman, who will decide whether it is appropriate to investigate the matter.

3.4.1 Where the Ombudsman considers a complaint warrants investigation, the investigation will usually be undertaken by the Ombudsman. However, the Ombudsman has powers to refer complaints to the appropriate local authority Monitoring Officer for investigation and determination by the local Standards Committee. The Ombudsman may refer a report on the outcome of an investigation by his office to the relevant Standards Committee or, generally in more serious cases, the Adjudication Panel for Wales.

3.4.2 The Public Services Ombudsman for Wales investigates complaints that members of relevant authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code the Ombudsman uses a two-stage test:

- the first stage is to establish whether there is direct evidence that a breach of the Code actually took place. The level of proof that is required is 'on the balance of probabilities'
- if that first evidential stage is met, at the second stage the Ombudsman considers whether an investigation or a referral to a Standards Committees or the Adjudication Panel for Wales is required 'in the public interest'. Public interest factors include:
  - the seriousness of the breach
  - whether the member deliberately sought personal gain for themselves or another person at the public expense
  - whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
  - whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
  - whether there is evidence of previous similar behaviour on the part of the member

- whether the investigation or referral to a Standards Committee or the Adjudication Panel for Wales is required to maintain public confidence in elected members in Wales
- whether investigation or referral to a Standards Committee or the Adjudication Panel of Wales is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the member (the Ombudsman takes account of the outcomes of previous cases considered by Standards Committees across Wales and the Adjudication Panel for Wales), and whether the use of resources in carrying out an investigation or hearing by a Standards Committee or the Adjudication Panel for Wales would be regarded as excessive when weighed against any likely sanction.

3.4.3 These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case. The Ombudsman has a wide discretion as to whether to begin or continue an investigation. He has revised the two-stage test adopted by his predecessor in order to provide greater clarity on how he will usually exercise his discretion and to secure a degree of consistency and certainty in the decisions that he reaches.

3.4.4 When the Ombudsman has investigated a complaint he may refer the matter to a relevant Standards Committee or to the Adjudication Panel for Wales for determination. This will depend on the nature of and individual circumstances of the alleged breach. When issuing his report the Ombudsman reflects on and analyses the evidence gathered and draws his conclusions as to whether it is likely that a breach of the Code has occurred. However, the authority and responsibility to make a determination of breach rests solely with a Standards Committee or the Adjudication Panel for Wales.

### 3.5 **Local Resolution Process**

Most principal councils in Wales have adopted local resolution procedures to deal with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints, and there are a number of Community Councils that have adopted a similar procedure using the Model Local Resolution procedure developed for their use by One Voice Wales. Typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code of Conduct or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to the Ombudsman about a fellow member if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), he is likely to refer the matter back to the principal council's Monitoring Officer for consideration under this process. It is generally accepted that such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.

3.5.1 The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then the Ombudsman expects the Monitoring Officer to refer the matter back to him, and if he sees a pattern of similar complaints being made by the same members he considers this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code.

### 3.6 **The Adjudication Panel for Wales**

The Adjudication Panel for Wales is an independent tribunal established under Part III of the Local Government Act 2000 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.

3.6.1 The Adjudication Panel for Wales has two statutory functions in relation to breaches of the Code of Conduct:

- to form Case or Interim Case Tribunals to consider references from the Public Service Ombudsman for Wales following his 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 in Appeal Tribunals.

3.6.2 The Adjudication Panel for Wales' 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)).

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

3.6.4 Anyone wishing to respond to a reference from the Public Services Ombudsman for Wales or to make an application for permission to appeal to the Adjudication Panel for Wales must complete and send the relevant form to the Panel. At an Adjudication Panel for Wales Hearing the Panel is composed of a legally qualified chairperson and two lay members. Legally qualified members can also sit as a lay member. Panel Hearings are normally held in public and take place close to the authority area. The Adjudication Panel for Wales publishes its decisions on its website. Decisions of Case Tribunals can be appealed on limited grounds to the High Court, and permission to appeal to the High Court must first be sought from the High Court.

3.6.5 When the Public Services Ombudsman refers a case to the Adjudication Panel for Wales its role is to determine whether a member has breached the Code and whether a sanction should be imposed. The powers available to the Panel when it determines that a member or co-opted member has failed to comply with the Code are:

- to disqualify the respondent from being, or becoming, a member of the relevant authority concerned or any other relevant authority for a period of up to five years
- to suspend or partially suspend the respondent from being a member or co-opted member of the relevant authority concerned for up to 12 months, or
- to take no action in respect of the breach. In such cases the Panel may deem it appropriate to warn the member as to their future conduct. Where such a warning has been recorded it is likely to be taken into account during any future hearing where the member is found again to have failed to follow the provisions of the Code.

3.6.6 Where either a Standards Committee or the Panel suspends or partly suspends a member or co-opted member that member is still subject to the Code of Conduct, in particular the provisions set out in paragraphs 6(1)(a) (*'bringing the office of member or authority into disrepute'*) and paragraph 7 (*'improperly using the position of member'*).

### 3.7 The role of the **Monitoring Officer** of a principal council

The Monitoring Officer is an officer employed by the County or County Borough Council. Among many other things they advise and assist County Councillors. Monitoring Officers may offer some training and advice to Community Councils in their area. The Monitoring Officer has a significant role in the local resolution process outlined earlier and they will also work closely in advising the Council's Standards Committee.

### 3.8 The role of the **Clerk** of a Community Council

The Clerk has a complex role and advises Community Councillors on relevant legislation, including matters relating to the Code of Conduct and on the Council's Standing Orders. The Clerk will work closely with the Chair to ensure that appropriate procedures are followed at meetings and that all necessary information is available to Councillors so that they may make informed decisions. Clerks may approach their relevant County or County Borough Council's Monitoring Officer for advice and support.

3.8.1 The Clerk is an employee of the Council and is not required to abide by the Code of Conduct. Any issues regarding the performance of the Clerk are personnel matters and should be addressed using appropriate employment procedures. The Public Services Ombudsman for Wales cannot consider complaints regarding the performance of the Clerk as this is a matter for the Council as the Clerk's employer.

### 3.9 **Complaints to the Public Services Ombudsman for Wales**

3.9.1 In 2019/20 the Public Services Ombudsman received 231 new Code of Conduct complaints - a decrease of 18% compared to 2018/19:

|                                    | 2019/20 | 2018/19 |
|------------------------------------|---------|---------|
| Town and Community Councils        | 135     | 190     |
| County and County Borough Councils | 96      | 91      |
| National Parks                     | 0       | 1       |
| Total                              | 231     | 282     |

3.9.2 This decrease in 2019/20 related almost wholly to the reduction in complaints made by or against members of Community Councils. The Ombudsman found this encouraging and suggested in his Annual Report for 2019/20 that standards of conduct of members of



these bodies may be improving and/or that the local resolution of issues may be taking place with good effect. Nevertheless, he is still receiving complaints in respect of a small number of Community Councils which appear to border on frivolity or are motivated by political rivalry or clashes of personalities, rather than being true Code of Conduct issues. When I spoke with him he exemplified this by referring to one complaint he had received that one member of a Community Council had been clicking his biro aggressively at another member. 18% of the Community Council complaints received related to members of just one body and were, in effect, 'tit for tat' complaints. The Ombudsman has, where appropriate, advised members that making frivolous and/or vexatious complaints is a breach of the Code of Conduct in itself.

- 3.9.3 In 2019/20 135 of the 231 complaints considered by the Public Services Ombudsman for Wales concerned Community Councillors, a welcome 18% reduction from the 190 complaints about Community Councillors considered by the Ombudsman in 2018/19. However, whilst the Ombudsman hoped that this was a sign that standards of conduct in Community Councils in particular was improving, and although the Ombudsman's Annual Report for 2020/21 is not yet published, when I spoke with him he gave me advance notice of a 47% rise in the number of complaints he received in 2020/21. He also told me that the early indications are that there will be a further significant increase in the current year (2021/22). He expressed concern that too much of his organisation's time is spent filtering complaints – over 400 in 2020/21 – the vast majority of which do not warrant investigation. In the Ombudsman's view mandatory training of all Councillors combined with increased local resolution of many of these low-level complaints is the key to making his work more focused and efficient, and the extension of his power to refer complaints back for local resolution would be a beneficial change to the current framework.
- 3.9.4 As in previous years, the majority of the Code of Conduct complaints received during 2019/20 related to matters of '*promotion of equality and respect*' (49%) and '*disclosure and registration of interests*' (17%). The Ombudsman expressed concern that these themes continue to dominate and that there has been a year on year increase in the number of complaints where bullying behaviour is being alleged, particularly from Clerks or employees/contractors of principal councils/County and County Borough Councils or Community Councils. He considers that members could benefit from training or refresher training on these subjects although his impression from investigations is that many members of Community Councils often do not take up opportunities offered to them to receive training on the Code of Conduct.
- 3.9.5 The Ombudsman's view, endorsed by all of those I met with during my review, is that Code of Conduct training is essential to becoming a 'good Councillor', and that members should undertake this training as soon as they become elected/co-opted and that there should be regular refreshment on the provisions and requirements of the Code of Conduct. There is currently no statutory obligation for members of Community Councils to complete such training although they are required to comply with the Code.
- 3.9.6 In 2019/20, 202 or approximately 86% of all Code of Conduct complaints were closed after assessment against the Public Services Ombudsman's two-stage test or after a complaint was withdrawn at the assessment stage. This proportion is only marginally higher compared to the previous year (83%). The remaining complaints taken forward to

investigation represented the most serious of the complaints received.

3.9.7 During the Ombudsman's investigation, evidence gathered is reviewed to assess whether it remains in the public interest to continue the investigation. Where it appears that investigating a matter is no longer in the public interest, the decision is made by the Ombudsman to discontinue that investigation. Sometimes the investigation finds no evidence of a breach. Finally, when an investigation is concluded, the Ombudsman can determine that '*no action needs to be taken*' in respect of the matters investigated. This will often be the case if the member has acknowledged the behaviour may be suggestive of a breach of the Code and has expressed remorse or taken corrective or reparatory action to minimise the impact of it on the individual, the public or the authority concerned. The Ombudsman made one or the other of these above determinations in 85% of the Code of Conduct investigations in 2019/20.

3.9.8 In cases which cannot be concluded in this manner or which point to serious breaches of the Code, it is necessary for the Ombudsman to refer the case to a relevant local Standards Committee or to the Adjudication Panel for Wales for consideration. In 2019/20 5 referrals were made, 2% of all the Code of Conduct complaints that were closed, compared to 8 or 3% in 2018/19. In 2019/20 these referrals were:

- 4 referrals to Standards Committees
- 1 referral to the Adjudication Panel for Wales

3.9.9 The Adjudication Panel for Wales or the relevant local Standards Committee considers the evidence, together with any defence put forward by the member concerned. It then determines whether a breach of the Code has occurred and if so, what penalty, if any, should be imposed.

3.9.10 The 4 referrals to Standards Committees in 2019/20 concerned behaviour which was considered to be disrespectful, capable of being perceived as bullying and/or disreputable behaviour. One of the cases referred involved conduct indicating bullying behaviour towards an employee of a contractor of the authority. When the 2019/20 Annual Report was published, the Adjudication Panel for Wales was considering an appeal on the issue of sanction only in that case. Two of the referrals featured behaviour which suggested that the members had used their positions improperly to create an advantage or disadvantage for themselves or others. When the 2019/20 Annual Report was published, these two referrals were awaiting determination.

3.9.11 The referral to the Adjudication Panel for Wales concerned the conduct and behaviour of a member in their private life and considered whether the behaviour complained about was capable of impacting on and bringing their authority into disrepute. It also concerned whether that member had used their position improperly for the advantage of another. In the case of this referral, the Panel determined there were serious breaches of the Code. As a result, the member was suspended from holding office for 3 months.

3.9.12 Between 2016/17 and 2018/19, the Adjudication Panel for Wales and Standards Committees upheld and found breaches in 88% of referrals by the Ombudsman. In 2019/20 Standards Committees and the Adjudication Panel for Wales also determined 5 cases referred by the Ombudsman. In all these cases, the Standards Committees and the Panel found serious breaches of the Code. Some of the breaches found included serious examples of disrespectful, disreputable and improper behaviour on the part of members towards other members and members of the public. In one case, the member was found to have been in breach of the Code for attempting to interfere with and prejudice the Ombudsman's investigation of a complaint made about them. In all cases, the members, or former member, concerned were suspended for a period of 4 months.

3.9.13 As is clear from these statistics above, the Public Services Ombudsman for Wales makes referrals to a Standards Committee or the Adjudication Panel for Wales only in a very small number of cases, and he does not believe that the case referrals are indicative of a wider decline in member conduct in Welsh local government. Nevertheless, the outcomes of these referrals demonstrate the importance of standards of conduct in public life and provide a helpful indication to members of all authorities as to the behaviours expected of them. Even when the Ombudsman does not refer a case, the investigation is used as an opportunity to promote good practice, and the members investigated are reminded of their obligations under the Code and, where relevant, further training or engagement with the authority to prevent further possible breaches is proposed. Members are also sometimes made aware that the matter could be taken into consideration in the event of any future complaints of a similar nature. The Ombudsman is clear in his report that it is important that innovative and pragmatic ways to resolve matters to ensure a timelier outcome for all concerned should be deployed.

## 4 My findings

4.1 In the course of my review I have met with most of those individuals and organisations that are involved in the operation of the ethical standards framework in Wales. The overwhelming consensus is that the current framework is 'fit for purpose', works well in practice and a large number of those that I consulted proposed that '*if it ain't broke don't fix it*'. Many respondents commented that the ethical standards framework that applies in Wales is far superior to that currently used in English local government partly because, unlike in England, the Code of Conduct applies both when a Councillor is acting in their official capacity and when a Councillor behaves in a way that could be regarded as bringing their office or their authority into disrepute, and partly because the separation of roles and responsibilities as described earlier in the Welsh framework provides a degree of genuine independence in the way that complaints are assessed and investigated. However, it is also clear that with some minor adjustments and amendments to the current framework this could result in a lower number of low level complaints made and the need for formal investigations that are required into allegations that there has been a breach of the Code of Conduct being significantly reduced, and that the already high ethical standards in Welsh local government could be further enhanced.

### 4.2 The Model Code of Conduct

4.2.1 Clear, relevant, and proportionate Codes of Conduct are central to maintaining ethical standards in public life. Codes of Conduct were identified by the Committee on Standards in Public Life in its first report in 1995 as one of the essential 'strands' in promoting and maintaining ethical standards in public life, at a time when many public sector organisations did not have them. Codes of Conduct play an important role in maintaining ethical standards in an organisation. They are not an alternative to values and principles, but they make clear how those values and principles should be put into practice. They enable people to be held to account for their actions by setting out clear expectations about how they should behave.

4.2.2 The power to issue a Code of Conduct was transferred to Welsh Ministers by the Government of Wales Act 2006, and in 2008 (amended on 1 April 2016), Welsh Ministers issued the current Model Code of Conduct which all relevant authorities are required to adopt. In Wales, unlike in England, the Code of Conduct applies both when a Councillor is acting in their official capacity (including if they claim to act or give the impression that they are acting in that capacity), and when a Councillor behaves in a way that could '*reasonably be regarded as bringing [their] office or [their] authority into disrepute*'. This includes any time a Councillor attempts to use their position to gain advantages (or to avoid disadvantages) for themselves or others, or misuses their local authority's resources. As noted earlier, the Public Services Ombudsman for Wales has also issued guidance of the application of the Code of Conduct to social media use.

4.2.3 I was required as part of this review to conduct an audit of the Codes of Conduct adopted by all the relevant authorities in Wales against the Model Code to identify any local variances and to consider whether the ten 'principles' of conduct are still relevant and whether the Model Code of Conduct needs updating. This would include identification of areas where improvements could/should be made. The Monitoring Officers of all

principal councils, National Parks Authorities, and Fire and Rescue Authorities responded to my request for information about the Code of Conduct that had been adopted by their Authority and with only one exception (a County Council) the response was that the Model Code of Conduct had been adopted without significant variations or additions. However, a number of local authorities (over one half) have also adopted a local resolution procedure or protocol supplementary to the Model Code and over one half of local authorities also have a mandatory training requirement, again not as part of the Code itself but supplementary to it. In other authorities this is an expectation rather than being mandatory.

- 4.2.4 Paragraph 17 of the Model Code requires members, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of their authority, provide written notification to the authority's monitoring officer, or in relation to a Community Council, to the authority's 'proper officer' of the existence and nature of that gift, hospitality, material benefit or advantage. The Code does not specify any threshold for such declarations but a number of authorities have specified a threshold beyond which there must be a declaration. This ranges from £21 to £100 and there is agreement that the threshold should be specified in the Code to ensure consistency across Wales.
- 4.2.5 I was also required to explore options to bring the requirements of the Register of Interests provisions in the Model Code of Conduct Order in line with the policy of the Local Government and Elections (Wales) Act 2021 to stop Councillors' addresses being published. As I understand it, the law requiring the publication of the home addresses of Councillors was changed in the Local Government and Elections (Wales) Act 2021 so Councils will no longer do this from May 2022. This is for the safety and privacy of members, and reflects the fact that email or phone is now a more usual way of contacting members. However, Regulations issued under the Local Government Act 2000 still require members to include their home address in the Council's Register of Interests so the legislation is not in alignment. There is agreement that the Code of Conduct should not require Councillors to disclose their home address to declare the home address, and that Paragraph 10.2.(vi) of the Model Code of Conduct should be amended to read:

*'any land (other than the principal residence) in which you have a beneficial interest and which is in the area of your authority'*

- 4.2.6 The Public Services Ombudsman has raised an issue in relation to the definition of 'person', a term frequently used in the Model Code of Conduct. A 'person' is not defined either in the 2000 Local Government Act or in the Model Code of Conduct so the Ombudsman has had to rely on the definition in the Interpretation Act 1978 which is 'a body of persons corporate or unincorporate'. The Ombudsman has been challenged when he has tried to use his powers to obtain information from a company or a charity and he has to threaten and or use powers to formally bring criminal proceedings and or contempt proceedings under current legislation for failing to cooperate with the investigation by the Ombudsman. So a clear definition of what is meant by a 'person' on the face of the legislation or in the Model Code would be beneficial.

4.2.7 Paragraph 4a of the Model Code of Conduct requires that a member must:

*'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion'*

There is concern that this provision does not include all protected characteristics, and the view from consultees is that even though no problems have resulted as yet from the narrow coverage of this provision it should be extended to include all nine protected characteristics under the Equality Act 2010 – race, religion or belief, age, disability, sex (gender), sexual orientation, gender reassignment, marriage and civil partnership, pregnancy and maternity.

4.2.8 It is clear that there is the potential for breaches of the Code of Conduct resulting from the extensive and increasing use being made by elected members of a range of social media. The Welsh Local Government Association has produced useful guidance on social media in *'Social Media: A Guide for Councillors'*. The guidance provides members with advice about how to use social media, the possible pitfalls and how to avoid them. It reminds members that whenever something is posted on social media it becomes a publication, and is effectively made a broadcast in the public domain that is subject to both the Code of Conduct and to various laws. The WLGA guidance reminds members that the Code of Conduct applies to members whenever they are *'Conducting the business of your authority, acting, claiming to act or give the impression you are acting in your official capacity as a member or representative of your authority'*, and the Code applies if a member conducts them self *'in a manner which could reasonably be regarded as bringing your office or your authority into disrepute'*. If a member can be identified as a Councillor when using social media, either by the account name or how they are described or by what they comment on and how they comment, the requirements of the Code of Conduct apply. If a member says something that could be regarded as bringing their office or authority into disrepute the Code applies even if the member is not apparently acting in an official capacity or does not identify him or herself as a member. The Ombudsman's guidance states that:

*'Making unfair or inaccurate criticism of your authority in a public arena might well be regarded as bringing your authority into disrepute'*, and in the same way that you are required to act in Council meetings or in your communities you should:

- show respect for others - do not use social media to be rude or disrespectful
- not disclose confidential information about people or the Council
- not bully or intimidate others - repeated negative comments about or to individuals could be interpreted as bullying or intimidation
- not try to secure a benefit for yourself or a disadvantage for others

- abide by the law on equality - do not publish anything that might be seen as racist, sexist, ageist, homophobic, anti-faith or offensive to any of the groups with protected characteristics defined in the Equality Act 2010, even as a joke or *'tongue in cheek'*

This helpful guidance by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Model Code of Conduct.

#### 4.2.9 Criminal convictions

6(1)(b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. It states:

*(You must) 'report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty)'*

In practice, most members have self-reported to the Public Services Ombudsman for possible breaches of the Code as a result of criminal conduct. However, there have been cases where this has not happened until the Monitoring Officer's DBS checks have identified convictions or the matter has been reported in the press. The Code of Conduct should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct.

### 4.3 Training for Councillors

4.3.1 Without exception, every individual or organisational representative that I met in the course of this review expressed the view that initial training for all Councillors on the requirements of the Code of Conduct adopted by their authority should be mandatory, and that this initial training should be regularly 'refreshed'. The simplest way to achieve universal mandatory training would be to include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members in Wales are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they can act as a Councillor, in the same way that they are currently required to undertake to observe the Code of Conduct adopted by their authority. It may require legislation to amend the 2004 Order appropriately. As was demonstrated in the audit of the Codes of Conduct adopted by all the relevant authorities mandatory training on the Code of Conduct is already a requirement of more than half of the principal councils so this would not be a controversial development for members of principal councils. However, although all members of Community Councils are currently required under the 2004 Order to be bound by the Code of Conduct it may be seen as a matter of controversy for them to be required also commit to training without due notice so advice that this is the case could be provided to all those considering standing for

election. Alternatively, it may be easier to amend the Code of Conduct to require those subject to the Code to undergo appropriate training on the Code.

4.3.2 If initial and refresher training on the Code is made mandatory there will need to be consideration of how that training can be resourced and delivered. At the moment many Monitoring Officers provide training on the Code of Conduct not only to their own members but also to members of Community Councils in the area. Some of the larger Community Councils arrange the training themselves, often using the training materials developed by One Voice Wales on the Code of Conduct and wider governance matters. Sometimes One Voice Wales provides the training direct but this has resource implications particularly for the smaller Community Councils.

#### 4.4 **Standards Committees and Independent Chairs**

4.4.1 I met with a number of Independent Chairs of Standards Committees and also attended a meeting of the North Wales Forum for Chairs of Standards Committees in the course of this review. I was struck by the variation in the way that Standards Committees in Wales see their remit and at the role played by the Independent Chairs of Standards Committees. At the one extreme Standards Committees and their Independent Chairs seem to have either been given or have adopted a very limited role, meeting infrequently and only really active when there is a Hearing of a case referred by the Public Services Ombudsman for Wales. At the other extreme there are Standards Committees and Chairs that see their remit much wider than this, and as leading the development and maintenance of the ethical standards framework in that local authority. In particular these Standards Committees and Chairs, along with the Monitoring Officer, act as a primary source of advice, support and guidance to the Community Councils in their area. In a number of authorities the Independent Members of the Committee attend meetings not only of their own Council but also meetings of the Community Councils in their area, recording their assessment of the meeting generally and the conduct of members specifically and feeding this assessment back to the Clerk and Chair of the Community Council. They stand ready to intervene if necessary to assist the Council and its Clerk to deal with challenging and inappropriate behaviour by members of that Council and, in one case, the Independent Chair monitors the situation in particularly problematic Community Councils in his or her area and intervenes to 'police' the behavior of the members involved.

4.4.2 There needs to be a consistency of approach and for the remit of the Standards Committee to be generally similar across Wales, accepting that 'one size does not fit all' and that there is a need for the local Standards Committee to reflect the specifics of the local situation for the principal authority concerned. The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council.

4.4.3 The Local Government and Elections (Wales) Act 2021 has, at its core, the principles of democracy, diversity, transparency and accountability to the citizens of Wales. The Act includes a number of provisions which are fundamental to greater transparency and



openness between local Councils and communities, as well as measures to combat bullying and harassment amongst elected members and Council staff. These provisions include:

- a new duty on leaders of political groups in principal councils to take reasonable steps to promote and maintain high standards of conduct by the members of their group
- a requirement for the group leader(s) to co-operate with the Council's Standards Committee in the exercise of its functions to promote and maintain high standards of conduct across the Council
- new functions for Standards Committees to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties
- a requirement for the Standards Committee to make an annual report to the authority on the discharge of its functions, its assessment of standards of conduct within the authority and any recommendations for improving standards. This report at the end of each financial year should describe how the Committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the Council. The Council will be obliged to consider the report within three months of its receipt. This new duty will help to ensure that all Standards Committees adopt good practice and that standards issues are considered regularly (at least annually) by all Council members.
- a requirement for Community Councils to publish and keep under review a training plan for its members and officers. It is anticipated that such plans would include provision of training on the Code of Conduct at appropriate intervals.

4.4.4 There is seen to be a need for initial training of members of Standards Committee members, not only on the Model Code of Conduct but also on how to hold Hearings to ensure openness and fairness to the member complained of, to the complainant and to any witnesses. The initial training should be refreshed immediately prior to a case being heard as well.

4.4.5 There is an established Forum for Independent Chairs of Standards Committees in north and mid Wales. I attended a meeting of this Forum and had a very useful exchange with the Chairs and Monitoring Officers who attended. Although a Forum for the Chairs of Standards Committees in South Wales no doubt would serve a similar purpose in the facilitation of exchange of information and experiences about the work of Standards Committees in that part of Wales, I suggest that there should be an all-Wales Forum and that the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees across Wales that took place until recently would encourage consistency of approach and the adoption of best practice across Wales.

4.4.6 The Public Services Ombudsman for Wales accepts that there is a need for more references back to Standards Committees when he declines to investigate complaints, and that although the technicalities of how references back are managed needs careful consideration he does not believe this to be complicated. The Ombudsman considers that this informal arrangement would not require any legislative change as far as his powers are concerned but that Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant. His clear view is that the power for the Standards Committee to impose training or to require an apology to be made would be helpful to *'nip things in the bud'* at a local level.

4.4.7 I was asked as part of my review to consider whether the establishment of sub-committees of Standards Committees dedicated to Community Council issues has had any impact on the process of supporting Community Councils and dealing with complaints. From my audit of Standards Committees it seems that only one County Council in Wales has established such a subcommittee of its Standards Committee and as that County Council has 128 Community Councils in its area this is seen to be a practical way of managing the situation.

#### 4.5 **Community Councils**

4.5.1 There is agreement by all those that I met in the course of the review that local resolution combined with the mandatory training of all members has the potential to provide a means for resolving many issues locally before they get out of hand, and to prevent low-level complaints and 'grumbles' about fellow members turning into formal complaints to the Ombudsman that he either has to deal with or refer back for local consideration. Ultimately, however, the success of any approach relies on the co-operation and actions of individual members and the Code of Conduct regime must remain in place to deal with instances of serious misconduct.

4.5.2 Many of those I have spoken with expressed serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Community Councils. In particular, conduct perceived as bullying or harassment in the past has had an adverse impact on the ability of some Councils to retain members and Council officers. Less serious, but nonetheless disruptive behaviour by members, which falls short of a failure to comply with the Code, can also frustrate the effective conduct of Council business. The Public Services Ombudsman takes seriously any allegation that a member has bullied or harassed another member or officer and his guidance on this makes it clear that members must show other members and officers the same courtesy and consideration that they show others in their daily lives. In seeking to reduce the incidence of bullying or otherwise inappropriate behaviour, with the assistance of Monitoring Officers, the Ombudsman has engaged with a number of Community Councils that have given rise to a disproportionate number of complaints in the past. His approach is that bullying and harassment, or lack of respect will simply not be tolerated. Guidance being prepared by One Voice Wales and the Society of Local Council Clerks aims to help Councils in avoiding or tackling bullying, harassment and

inappropriate behaviour, including advice on formulating an effective complaint. This guidance for members of Community Councils emphasises the need for effective relations between members and officers, within a culture of mutual respect and consideration.

#### **4.6 Local resolution of complaints**

4.6.1 The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then the Ombudsman expects the Monitoring Officer to refer the matter back to him, and if he sees a pattern of similar complaints being made by the same members he considers this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code.

4.6.2 Most principal Councils in Wales have adopted local resolution procedures to deal with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints, and there is a small number of Community Councils (around 70 of the 735 Town and Community Councils in Wales) that have adopted a similar procedure using the Model Local Resolution procedure developed for their use by One Voice Wales and the Public Services Ombudsman. This provides guidance relevant to Town and Community Councils in formulating and operating such protocols. Typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to the Public Services Ombudsman about a fellow member, if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), he is likely to refer the matter back to the principal council's Monitoring Officer for consideration under this process. It is generally accepted that such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.

#### **4.7 The Public Services Ombudsman for Wales**

4.7.1 Section 68 of the 2000 Act empowers the Public Services Ombudsman for Wales to issue guidance to relevant authorities on matters relating to the conduct of members and co-opted members of those authorities. The Ombudsman has issued two sets of guidance under these powers to assist members in understanding their obligations under the Code of Conduct. Both sets of guidance are fundamentally the same in respect of the interpretation of the Code, but one version is tailored specifically to the context within which Town and Community Councillors operate. Guidance issued under these powers, most recently in 2016, is subject to periodic review in light of the

operation of the Code, emerging case-law and changes to the Code itself. The current guidance has been reviewed and updated primarily to include more recent decisions of Standards Committees and the Adjudication Panel for Wales. The opportunity has also been taken to clarify and, in some cases, strengthen the wording of the guidance, for example, in relation to bullying and harassment of fellow members and officers and the disclosure of interests.

4.7.2 Section 69 of the 2000 Act empowers the Public Services Ombudsman to investigate allegations by any person that a member has failed to comply with their relevant authority's Code of Conduct. The Ombudsman may also investigate potential breaches of the Code that have come to the Ombudsman's attention during the course of an investigation. The Ombudsman has regard to the content of his guidance on the Code when exercising these powers. The guidance may also be taken into account by Standards Committees and the Adjudication Panel for Wales when exercising their respective functions.

#### 4.7.3 The two-stage Public Interest Test

The Ombudsman has wide discretion under the 2000 Act to determine whether it is appropriate to investigate a complaint made to his office. All too often, it has been necessary for the Ombudsman and his predecessors to express concern about the number of low-level, tit-for-tat complaints by members which border on frivolity, or which are motivated by political rivalry or personality clashes, rather than true Code of Conduct issues. The two-stage test was first introduced in 2015 and is kept under review. The purpose of the test is to provide greater clarity, and a degree of certainty and consistency, in the exercise of the Ombudsman's discretion as to whether an investigation is in the public interest. This ensures that finite resources are targeted towards the more serious allegations received by the Ombudsman. Often, cases are not taken forward because they fail to satisfy the first stage test due to a lack of direct evidence that a breach may have taken place. This has been a particular feature of complaints received about members of Town and Community Councils. The Ombudsman has continued to work with One Voice Wales and the Society of Local Council Clerks on the development of guidance being prepared by them on how to formulate an effective complaint. The Ombudsman considers that the involvement of Standards Committees in applying the two-stage test is impractical, not least as it may be perceived as prejudicing the later consideration of any report of a subsequent investigation that has been referred back to a Committee. It would probably also require primary legislation to make this a function of a Standards Committee or some other person or body. The Ombudsman has powers under section 70 of the 2000 Act to refer complaints for local investigation by Monitoring Officers. However, Monitoring Officers raised concerns about the exercise of these powers due to the lack of available resources to undertake local investigations effectively. There is also a reluctance on the part of Monitoring Officers to be involved in the investigation of complaints against members of their own authorities for understandable reasons.

- 4.7.4 A number of consultees expressed concern that the Ombudsman handled complaints through desk exercises with no detailed investigation being undertaken, and the validity of the two-stage test was also questioned. The first stage of the test was considered to be objective and based on reasonably clear criteria. However, the second stage ‘public interest’ test was considered to be subjective and based mainly on the Ombudsman’s opinion. It was suggested that the ‘public interest’ test should be applied by a wider ‘audience’ appointed for the purpose, such as the Standards Committee of the principal council for the area. There was also concern that the low number of referrals to Standards Committees as a proportion of the complaints received by the Ombudsman had an adverse impact on the ability of Standards Committees to maintain public confidence in elected members, that complainants felt their concerns were not being taken seriously and that on occasion the member complained about felt exonerated and free to continue with the conduct that had been the subject of the complaint. The exercise of the Ombudsman’s discretion more towards referral than at present would be welcome.
- 4.7.5 There is a concern that the investigations undertaken by the Ombudsman take too long, linked to a concern that the power to suspend the member concerned whilst the investigation is being carried out is not being exercised by the Adjudication Panel for Wales though a referral by the Ombudsman. This can mean that a member facing serious allegations of a criminal nature may still be able to act as a Councillor with potential implications for the safeguarding of members of the public, other Councillors and employees of the local authority. The Ombudsman responded to the concerns about the length of some investigations by pointing to the unavoidable delays resulting from the unavailability of witnesses and the need to gather evidence that had not been included as part of the initial complaint. He also reiterated his concern that too much of his organisation’s time and limited resources is spent filtering complaints – over 400 in 2020/21 – the vast majority of which do not warrant investigation.

#### **4.8 The Adjudication Panel for Wales**

- 4.8.1 The President of the Adjudication Panel for Wales has made a number of proposals for amendment both to the policies and the practices that apply to the Panel. The Panel is a creature of statute created by the Local Government Act 2000 but since devolution the underpinning of the Panel’s powers and processes result from a mixture of the LGA 2000 and a variety of Welsh Regulations, particularly The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 and The Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001 (both amended). The Regulations were drafted by the Welsh Government, and it would be for Welsh Government to deliver any policy amendments. In addition, ‘practice directions’ need the approval of the First Minister and while it is for the President of the Panel to set out new procedures or changes for Appeal Tribunals, the First Minister must agree any changes. Presidential Guidance is a matter for President but it is not legally binding.

- 4.8.2 Restricted reporting orders

The Panel does not have the ability to control in any way the reporting by the press about any case, although the law about reporting of sexual offences applies automatically (this has been ignored by the press unless criminal proceedings have been taken, despite reminders by the Panel at Hearings). The Public Services Ombudsman has reported that without an express legislative power enabling it to make such restricted reporting orders, some complainants have been unwilling to give statements or to make complaints, and there have been instances of third parties who were not even witnesses becoming the focus of press reporting and social media commentary. It has led to the Panel attempting to deal with the problem through using its power to control its proceedings to impose anonymity for certain witnesses or third parties. This has not been comfortable as there is no express power to anonymise (the APW has used the European Convention of Human Rights to do this, which is consistent with the approach of Employment Tribunals before the legislation was changed to expressly permit such orders), and is not binding on anyone other than the parties or witnesses who appear before it. In addition, given the nature of the Panel's work and the inevitable interference with local democracy that can result from the imposition of sanctions, it would be better to be able to allow more openness about witnesses and to impose a Restricted Reporting Order. The Panel President considers that the powers available to an Employment Tribunal - an Employment Tribunal can impose a Restricted Reporting Order either until the end of proceedings or an extended Restricted Reporting Order that can be in place forever - would be appropriate for all Panel Tribunals and could be introduced either through legislation for all Welsh tribunals following the recent Law Commission Report or specifically for the Adjudication Panel for Wales.

#### 4.8.3 Anonymity of witnesses

This is closely related to the issue of Restricted Reporting Orders. The Public Services Ombudsman has asked for a consistent approach to the anonymity of witnesses so his staff know the position when preparing reports and explaining the process to witnesses. The President considers it appropriate to issue presidential guidance to ensure consistency and transparency and will do so shortly, but an express power to anonymise would be useful for both Case and Appeal Tribunals to ensure that there is legal underpinning for such a step. It is in the President's remit to add this power for Appeal Tribunals, but fresh legislation would be required for Case Tribunals.

#### 4.8.4 Disclosure

There is an issue about the disclosure of the unused material held by the Public Services Ombudsman and Monitoring Officers. It has been agreed to amend the Ombudsman's own process in this regard, with Presidential guidance/practice direction on both disclosure and the role of the Monitoring Officer generally. This is seen to avoid delay with the Panel procedure and allow both the accused member and the Tribunal to obtain additional evidence easily.

#### 4.8.5 Appeal Tribunal procedure

The Panel President intends to ask the First Minister, through the President of Welsh Tribunals, to approve amendments to the Appeal Tribunal procedure. Service should be by first class post with deemed service rules in place and Panel should be given the express ability to anonymise witnesses. There is a grey area on the subject of witness summons – Case Tribunals expressly have the power to do this through the relevant Regulations but the Regulations for Appeal Tribunals say that the Panel President determines this with the consent of the First Minister. The current Regulations also require the Standards Committee to consider the Panel decision on the Appeal if it is different to the original decision. This is unpopular with Standards Committees as they feel bound by the Panel decision if only to avoid further appeals. Despite this, the President is comfortable with the current position as it means the Standards Committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

#### 4.8.6 Case Tribunal procedure

The Panel President considers that the Regulations are outdated in several respects. Service should be by first class post with deemed service rules in place, the ability to anonymise witnesses is required, and there is a Regulation that says Hearings can only be postponed with seven days notice given to the accused member. The ability to have part public and part private hearings is not expressly permitted currently.

#### 4.8.7 Permission to appeal procedure

In 2016 a new process for appeals was introduced, requiring permission to appeal to be sought from the President of the Panel. The President considers that this process does not work well – it only allows delegation of her power to another legal member if she is absent whereas she would prefer to have discretion about delegation, such as when the accused member is known to her, it requires her to make a decision within 21 days with an extension of time if further information is required but it is not clear from when the new deadline applies, and does not give the Public Services Ombudsman any opportunity to make submissions to the Panel. A Hearing is possible if there are special circumstances, but no extension of time is given to effectively allow this. The President proposes minor amendments to make the process more balanced and sensible.

#### 4.8.8 Sentencing powers

Currently the powers available to the Panel when it determines that a member or co-opted member has failed to comply with the Code are:

- to disqualify the respondent from being, or becoming, a member of the relevant authority concerned or any other relevant authority for a period of up to five years
- to suspend or partially suspend the respondent from being a member or co-opted member of the relevant authority concerned for up to 12 months, or

- to take no action in respect of the breach. In such cases the Panel may deem it appropriate to warn the member as to their future conduct. Where such a warning has been recorded it is likely to be taken into account during any future hearing where the member is found again to have failed to follow the provisions of the Code.

Monitoring Officers have confirmed that they would like the Panel to have the ability to impose more varied sanctions as was the case with the former Adjudication Panel for England.

#### 4.8.9 Interim Case Tribunals

The Public Services Ombudsman has the power under s72 of the LGA 2000 to make interim referrals to the Adjudication Panel for Wales if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the Code of Conduct, the nature of which is likely to lead to disqualification. Both the Ombudsman and the Panel President consider that the threshold for meeting the legislative requirements for an interim referral to the Panel is too high. This view is shared by many of the Monitoring Officers and others that I have met, but any change to these powers would require primary legislation by the Welsh Government. The fact is that the Ombudsman has never applied for such a Hearing. The process is lengthy and the LGA 2000 does not explain sufficiently what is required to deal with such hearings. The intention in the Act appears to be to allow an accused member to be suspended for six months (it is unclear whether this is one term of suspension or if it can be renewed on application) while the Ombudsman investigates if that Councillor through their role was interfering with the investigation or if for some other reason it was necessary to suspend on an interim basis. The issue has arisen several times where Councillors are being prosecuted for historic sex offences and there is a strong feeling from Monitoring Officers and Standards Committees that it is inappropriate to continue to remunerate a Councillor who is facing such charges, and that his or her continued activities as a Councillor could endanger members of the public, other Councillors or members of staff. A member who is charged with criminal offences is innocent until proven guilty, and in order for the Ombudsman to make an interim referral there would need to be strong evidence that it is in the public interest for a suspension to be imposed, particularly if the offences are historical. This could be met if, for example, there is evidence that the member represents a risk to the public at large or to a particular group in the locality. A neutral act of suspension akin to the practice in employment matters pending hearings taking place would provide some assurance to the public and to local authorities on the risk that the member concerned could reoffend or misuse their position/standing in the local community whilst being investigated or awaiting criminal trial. In addition, an Interim Case Tribunal would follow the same process as a full Case Tribunal, which means it would take at least three months to have a Hearing, and the Hearing would require a full Panel which would then present difficulties in constituting a new Panel for the final Hearing. There is no assistance in the legislation about how to manage such Hearings and 'public interest' is not defined. The proposal is that the whole process should be simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. The Hearing would be by a legal member sitting alone but with



the ability to invite oral submission from the parties in the interests of justice. The Public Services Ombudsman would submit a referral to the President of the Panel with a report setting out the background and why an interim suspension was being sought. At the most, only six months suspension (partial or full) would be possible, and could be renewed up to three times in total (18 months in total). The accused member would be given an opportunity to submit why the interim suspension should not be made, but there would be no evidence called and the Ombudsman's report would be taken at face value in the same way that the GMC's report is taken at face value at the Medical Practitioners' Tribunal. The test to be applied would be:

*'Where it appears to the Interim Case Tribunal that:*

- a) if the matters outlined by the Ombudsman in the interim report are found by a Case Tribunal at a final hearing and would be likely to be found to constitute a failure to comply with the Code of Conduct of the relevant authority concerned;*
- b) and that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b) of the Local Government Act 2000;*
- and*
- c) and that it is in the public interest to suspend or partially suspend the accused member immediately for the protection of members of the public, to maintain public confidence in local government, to uphold proper standards of conduct and behaviour, or to enable the completion of the Ombudsman's investigation.'*

This would be a relatively minor amendment to the current public interest test, but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.

## **5 Conclusions and recommendations**

5.1 I welcomed the opportunity to lead this review and to collect the widest possible evidence

from those involved in the operation of the ethical standards framework about strengths and weakness of the current framework, how it might be improved and how the requirements of the recent legislation as it relates to ethical standards will be managed. The key question for all those I met with was - how can ethical standards in local government in Wales be enhanced, and on a practical point how can the number of complaints be reduced?

5.2 It was seen to be essential to ensure the local government family in Wales was fully involved in the review and informed the outcome. This involvement needed to be demonstrated as part of the outcome of this work. I have met with many of those individuals and representatives of organization most involved in delivering the ethical standards framework in Wales, and this report, its findings and its recommendations are largely based on the views and experience of those individuals and organisations.

5.3 The first phase of the review involved engagement with those individuals and representatives of organisations to establish views about the process and operation of the framework including details of where the framework works well and whether there are areas which could be improved. The outcome of this first phase builds on the positive elements of the framework while strengthening those areas where it is considered improvements could be made. Options to bring the requirements of the Register of Interests provisions in the Model Code of Conduct Order in line with the policy of the Act to stop Councillors' addresses being published have also been considered.

5.4 The following were required as key components of delivery:

- *An audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances*
- *An analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements*
- *Consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could/should be made to the current arrangements.*
- *Consideration of the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints.*
- *An analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and the*

*approach to addressing concerns.*

- *Consideration of the current sanctions and whether they are still appropriate*

5.5 This first stage of the review has covered each of these issues and my findings and recommendations for change below relate to the key components of delivery:

5.5.1 ***An audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances***

I conducted an audit of the Codes of Conduct adopted by all the required authorities against the Model Code of Conduct to identify any local variances and to consider whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This included identification of areas where improvements could/should be made. The Monitoring Officers of all principal councils, National Parks Authorities and Fire and Rescue Authorities responded to my request for information about the Code of Conduct that had been adopted by their Authority and with only one exception (a county Council) the response was that the Model Code of Conduct had been adopted without significant variations or additions. However, a number of local authorities (over one half) have also adopted a local resolution procedure or protocol supplementary to the Model Code and over one half also have a mandatory training requirement again not as part of the Code itself but supplementary to it. In other authorities this is an expectation rather than being mandatory.

5.5.2 ***An analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements***

All of those I met as part of this review consider that the ethical standards framework that applies in Wales is far superior to that currently used in English local government partly because unlike in England, the Code of Conduct applies both when a Councillor is acting in their official capacity and when a Councillor behaves in a way that could be regarded as bringing their office or their authority into disrepute, and partly because the separation of roles and responsibilities as described earlier in the Welsh framework provides a degree of genuine independence in the way that complaints are assessed and investigated. The framework generally, and the requirements of the Code of Conduct in particular, has been instrumental in fostering the high standards of conduct that are evident in local government in Wales.

However, there are concerns by the Public Services Ombudsman and Monitoring Officers about the continuing and recently increasing volume of complaints about the conduct of members of Community Councils. Adjustments and amendments to the current framework requiring mandatory training on the Code of Conduct for all members and the greater use of local resolution procedures should result in the number of the mostly low level complaints that are made and the need for formal investigations that are required into allegations that there has been a breach of the Code of Conduct being

significantly reduced, and this would result in the already high ethical standards in Welsh local government being further enhanced.

**5.5.3 Consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could/should be made to the current arrangements.**

The consensus is that the current framework is fit for purpose, works well in practice and a number of those that I consulted proposed that *'if it ain't broke don't fix it'*. The ten principles of conduct are seen as relevant and the Model Code of Conduct is seen as generally appropriate - and superior to the Code of Conduct used in English local government - and not in need of major revision.

However, I have proposed a number of amendments to the Model Code of Conduct in respect of:

- Paragraph 17 of the Model Code that requires members, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of their authority, provide written notification to the authority's Monitoring Officer, or in relation to a Community Council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage. The Code does not specify any threshold for such declarations and a number of authorities have specified a threshold beyond which there must be a declaration. The threshold should be specified in the Code to ensure consistency across Wales.
- The law requiring the publication of the home addresses of Councillors has changed recently so Councils no longer do this. However, members are required to include their home address in their Council's Register of Interests. There is agreement that the Code of Conduct should not require Councillors to disclose their home address, and it is proposed that Paragraph 10.2.(vi) of the Model Code of Conduct should be amended to read:

*'any land (other than the principal residence) in which you have a beneficial interest and which is in the area of your authority'*

- A *'person'* is not defined either in the 2000 Local Government Act or in the Model Code of Conduct so the Public Services Ombudsman has had to rely in conducting his investigations on the definition in the Interpretation Act 1978 which is *'a body of persons corporate or unincorporate'*. This has caused problems, and it is considered that a clear definition of what is meant by a *'person'* on the face of the legislation or in the Model Code would be beneficial.
- There is concern that the provision in Paragraph 4a of the Model Code of Conduct which requires that a member must:

*'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion'*

does not include all protected characteristics. This provision should be extended to include all nine protected characteristics under the Equality Act 2010 – race, religion or belief, age, disability, sex (gender), sexual orientation, gender reassignment, marriage and civil partnership, pregnancy and maternity.

- The potential for breaches of the Code of Conduct as a result of the extensive and increasing use being made by elected members of a range of social media is a matter of concern. The helpful guidance on the use of social media by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Model Code of Conduct.
- 6(1)(b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. In practice, most members have self-reported to the Public Services Ombudsman for possible breaches of the Code as a result of criminal conduct. However, there have been cases where this has not happened and the Code of Conduct should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct.

In addition to these proposed amendments to the Model Code of Conduct there are a number of other recommendations in respect of the current ethical standards framework in Wales:

- **Mandatory training on the Code of Conduct for all members of principal councils and community councils**

Every individual or organizational representative that I met proposed that initial training for all Councillors on the requirements of the Code of Conduct adopted by their authority should be mandatory, and that this initial training should be regularly 'refreshed'. The simplest way to achieve universal mandatory training would be to include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members in Wales are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they can act as a Councillor, in the same way that they are currently required to undertake to observe the Code of Conduct adopted by their authority. It may require legislation to amend the 2004 Order appropriately. The Local Government and Elections (Wales) Act 2021 includes a requirement for Community Councils to publish and keep under review a training plan for its members and officers. It is anticipated that such plans would include training on the Code of Conduct at appropriate intervals. If initial and refresher training on the Code is made mandatory for all councillors there

will need to be consideration of how that training can be resourced and delivered.

- **Increased use of local resolution of complaints**

Most principal Councils in Wales have adopted local resolution procedures to deal with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints, and there is a small number of Community Councils (around 70 of the 735 Town and Community Councils in Wales) that have adopted a similar procedure using the Model Local Resolution procedure developed for their use by One Voice Wales and the Public Services Ombudsman. Members may still complain directly to the Public Services Ombudsman about a fellow member, if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), he is likely to refer the matter back to the principal authority's Monitoring Officer for consideration under this process. It is generally accepted that such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints. Consideration should be given to whether the Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman. The consensus is that combined with mandatory training on the Code of Conduct for all Councillors this would speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.

- **Extended powers for the Public Services Ombudsman for Wales**

There is concern that the low number of referrals to Standards Committees as a proportion of the complaints received by the Ombudsman has had an adverse impact on the ability of Standards Committees to maintain public confidence in elected members, that complainants felt their concerns were not being taken seriously and that on occasion the member complained about felt exonerated and free to continue with the conduct that had been the subject of the complaint. Greater use of the Ombudsman's discretion for referral than is the case at present would be welcomed by Monitoring Officers and Chairs of Standards Committees. The Ombudsman is sympathetic to the view expressed by some of those I spoke with that his investigations take too much time and that too often quite serious complaints are simply not dealt with. He has expressed his concern that too much of his organisation's time is spent filtering complaints – over 400 in 2020/21 – the vast majority of which do not warrant investigation. In the Ombudsman's view local resolution of many of these low-level complaints is the key to making his work more focused and efficient, and the extension of his power to refer complaints back for local resolution would be a beneficial change to the current framework.

- **Changes to the powers and processes of the Adjudication Panel for Wales**

The President of the Adjudication Panel for Wales has made a number of proposals for amendment both to the policies and the processes that apply to the work Panel.

- **Restricted reporting orders**

The Panel does not have the ability to control in any way the reporting by the press about any case, although the law about reporting of sexual offences applies automatically. The Public Services Ombudsman has reported that without an express legislative power enabling it to make such restricted reporting orders, some complainants have been unwilling to give statements or to make complaints, and there have been instances of third parties who were not even witnesses becoming the focus of press reporting and social media commentary. The Panel President considers that the powers available to an Employment Tribunal - an Employment Tribunal can impose a Restricted Reporting Order either until the end of proceedings or an extended Restricted Reporting Order that can be in place forever - would be appropriate for all Panel Tribunals and could be introduced either through legislation for all Welsh tribunals following the recent Law Commission Report or specifically for the Adjudication Panel for Wales.

- **Anonymity of witnesses**

This is closely related to the issue of Restricted Reporting Orders. The Public Services Ombudsman has asked for a consistent approach to the anonymity of witnesses so his staff know the position when preparing reports and explaining the process to witnesses. The President considers it appropriate to issue presidential guidance to ensure consistency and transparency and will do so shortly, but an express power to anonymise would be useful for both Case and Appeal Tribunals to ensure that there is legal underpinning for such a step. It is in the President's remit to add this power for Appeal Tribunals, but fresh legislation would be required for Case Tribunals.

- **Disclosure**

There is an issue about the disclosure of the unused material held by the Public Services Ombudsman and Monitoring Officers. It has been agreed to amend the Ombudsman's own process in this regard, with Presidential guidance/practice direction on both disclosure and the role of the Monitoring Officer generally.

- **Appeal Tribunal procedure**

The Panel President intends to ask the First Minister, through the President of Welsh Tribunals, to approve amendments to the Appeal Tribunal procedure. The current Regulations also require the Standards Committee to consider the Panel decision on the Appeal if it is different to the original decision. This is unpopular with Standards Committees as they feel bound by the Panel decision if only to avoid further appeals. Despite this, the President is comfortable with the current position as it means the Standards Committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

- **Case Tribunal procedure**

The Panel President considers that the Regulations are outdated and has proposed a number of amendments to make the Case Tribunal Procedure more efficient and fairer to witnesses.

- **Permission to appeal procedure**

In 2016 a new process for appeals was introduced, requiring permission to appeal to be sought from the President of the Panel. The President considers that this process does not work well and proposes minor amendments to make the process more balanced and sensible.

- **Sentencing powers**

Currently the powers available to the Panel when it determines that a member or co-opted member has failed to comply with the Code are limited and the President would like the Panel to have the ability to impose more varied sanctions as was the case with the former Adjudication Panel for England. The Public Services Ombudsman and Monitoring Officers have confirmed their support for this.

- **Interim Case Tribunals**

The Public Services Ombudsman has the power under s72 of the LGA 2000 to make interim referrals to the Adjudication Panel for Wales if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the Code of Conduct, the nature of which is likely to lead to disqualification. Both the Ombudsman and the Panel President consider that the threshold for meeting the legislative requirements for an interim referral to the Panel is too high, and this view is shared by many of the Monitoring Officers and others that I have met, but any change to these powers would require primary legislation by the Welsh Government. The proposal is that the whole process should be simplified by applying a



test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. The Hearing would be by a legal member sitting alone but with the ability to invite oral submission from the parties in the interests of justice. The Public Services Ombudsman would submit a referral to the President of the Panel with a report setting out the background and why an interim suspension was being sought. At the most, only six months suspension (partial or full) would be possible, and could be renewed up to three times in total (18 months in total). The accused member would be given an opportunity to submit why the interim suspension should not be made, but there would be no evidence called and the Ombudsman's report would be taken at face value in the same way that the GMC's report is taken at face value at the Medical Practitioners' Tribunal. The test to be applied would be:

*'Where it appears to the Interim Case Tribunal that:*

*a. if the matters outlined by the Ombudsman in the interim report are found by a Case Tribunal at a final hearing and would be likely to be found to constitute a failure to comply with the Code of Conduct of the relevant authority concerned;*

*b. and that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b) of the Local Government Act 2000;*

*and*

*c. and that it is in the public interest to suspend or partially suspend the accused member immediately for the protection of members of the public, to maintain public confidence in local government, to uphold proper standards of conduct and behaviour, or to enable the completion of the Ombudsman's investigation.'*

This would be a relatively minor amendment to the current public interest test, but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.

#### **5.5.4 Consideration of the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints.**

I was struck by the variation in the way that Standards Committees in Wales see their remit and at the different roles played by the Independent Chairs of Standards Committees. At the one extreme Standards Committees and their Independent Chairs

seem to have either been given or have adopted a very limited role, meeting infrequently and only really active when there is a Hearing of a case referred by the Public Services Ombudsman for Wales. At the other extreme there are Standards Committees and Chairs that see their remit much wider than this, and as leading the development and maintenance of the ethical standards framework in that local authority. In particular these Standards Committees and Chairs, along with the Monitoring Officer, act as a primary source of advice, support and guidance to the Town and Community Councils in their area. There is a need for consistency of approach and for the remit of the Standards Committee to be generally similar across Wales, but accepting that 'one size does not fit all' and that there is a need for the local Standards Committee to reflect the specifics of the situation for the principal council concerned. The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council.

The Local Government and Elections (Wales) Act 2021 includes a number of provisions that will have implications for the work of Standards Committees which will be expected to support the political leadership of the Council in maintaining high standards of conduct by the members of their group and to make an annual report to the authority on the discharge of its functions, its assessment of standards of conduct within the authority and any recommendations for improving standards.

There is a need for training of members of Standards Committee, not only on the Model Code of Conduct but also on how to hold Hearings to ensure openness and fairness to the member complained of, to the complainant and to any witnesses.

There is an established Forum for Independent Chairs of Standards Committees in north and mid Wales. Although a Forum for the Chairs of Standards Committees in South Wales no doubt would serve a similar purpose in the facilitation of exchange of information and experiences about the work of Standards Committees in that part of Wales, I suggest that there should be an all-Wales Forum and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees across Wales that took place until recently that would encourage consistency of approach and the adoption of best practice across Wales.

The Public Services Ombudsman for Wales accepts that there is a need for more reference back to Standards Committees when he declines to investigate complaints, and that although the technicalities of how references back are managed needs careful consideration he does not believe this to be complicated. The Ombudsman considers that this informal arrangement would not require any legislative change as far as his powers are concerned but that Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant. His clear view is that the power for the Standards Committee to impose training or to require an apology to be made would be helpful to '*nip things in the bud*' at a local level.

I reviewed whether the establishment of sub-committees of Standards Committees dedicated to Community Council issues has had any impact on the process of supporting Community Councils and dealing with complaints. From my audit of Standards Committees it seems that only one County Council in Wales has established such a subcommittee of the Standards Committee and as that County Council has 128 Community Councils in its area this is seen to be a practical way of managing the situation.

There is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils. The Public Services Ombudsman takes seriously any allegation that a member has bullied or harassed another member or officer and his guidance on this makes it clear that members must show other members and officers the same courtesy and consideration that they show others in their daily lives. In seeking to reduce the incidence of bullying or otherwise inappropriate behaviour, with the assistance of Monitoring Officers, the Ombudsman has engaged with a number of Town and Community Councils that have given rise to a disproportionate number of complaints in the past, and guidance prepared by One Voice Wales and the Society of Local Council Clerks aims to help Councils in avoiding or tackling bullying, harassment and inappropriate behaviour. This is an issue that may be mitigated to some extent by a requirement for mandatory training of councillors and greater use of local resolution procedures, but it is a serious problem that will continue to need to be monitored and addressed where necessary by local Standards Committees and Monitoring Officers

**5.5.5 *An analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and the approach to addressing concerns.***

The review has been very useful in indicating where there is the need for changes to the current arrangements to support members and staff – principally Standards Committees and Monitoring Officers – in preventing issues arising and needing being dealt with more effectively in a timely way without the need for investigation by the Public Services Ombudsman. The recommendations for changes to the current ethical standards framework are intended to assist in achieving that objective.

**5.5.6 *Consideration of the current sanctions and whether they are still appropriate***

Where a Standards Committee concludes that a member or co-opted member has failed to comply with the relevant Council's Code of Conduct, it may determine that:

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured which takes the form of a public rebuke

or

- the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding six months or if shorter, the remainder of the member's term of office.

A member subject to a sanction by a Standards Committee may seek the permission of the President of the Adjudication Panel for Wales to appeal against the determination.

There was no view expressed during my review that these sanctions available to a Standards Committee are not proportionate or appropriate. However, the Public Services Ombudsman and Monitoring Officers confirmed their support for the Adjudication Panel for Wales having the ability to impose more varied sanctions than is currently the case. The proposal is that the sanctions should be similar to those available to the former Adjudication Panel for England.

#### **5.5.7 Accessibility of the ethical standards framework**

Although this was not an issue raised by any of those that I consulted there is nevertheless a concern that the ability of a member of the public to make a legitimate complaint about the conduct of an elected member in their area is constrained by the lack of publicity about the ethical standards framework and how the complaints procedure can be utilised. There is very helpful information and advice on the websites of the Public Services Ombudsman, the WLGA and One Voice Wales. However, based on my own experience of searching principal Council websites as well as the Welsh Government website for information about the Code of Conduct, or the work of Standards Committees or how to complain about the conduct of a councillor, a member of the public would have great difficulty in finding helpful information if they wished to complain. And of course not every member of the public has internet access, and some members of the public have particular difficulty in accessing information because of various disabilities, or because they belong to a 'hard to reach group' such as the traveler community or because of language problems. I have no practical recommendation about how this should be addressed but if the ethical standards framework is to be genuinely open, transparent and accessible to everyone, and if the objective is that the framework should command the confidence of everyone who may need to use it, then consideration needs to be given to how to ensure equality of access for everyone.

- 5.6 The second phase of the review will focus on working with partners and stakeholders to deliver any changes to the ethical standards framework that are considered appropriate and necessary by Welsh Ministers in the light of the findings and recommendations of the first phase of the review.

**Richard Penn**

**Independent Consultant**

**July 2021**





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Lisa James  
Deputy Director  
Local Government Democracy Division  
Department for Local Government  
Welsh Government  
(By Email)

25 March 2022

Dear Lisa,

### **Initial response to the Penn Report dated July 2021 - Three key issues**

At the Standards Conference on 9 February 2022 you said that you would welcome feedback from Standards Committees on the Penn Report on the Ethical Standards Framework, prior to full public consultation on any proposed changes to the Framework.

Monmouthshire County Council's Standards Committee met on 21 March 2022 and resolved to contact you with their views accordingly. A recording of that meeting is available on MCC's website<sup>1</sup>.

The committee agreed with the overarching conclusion in the Report that the "*the current framework is 'fit for purpose', works well in practice and [is] viewed by many as far superior to that currently used in English local government*"<sup>2</sup>.

There were some initial points that the Committee wanted to raise with you and I would be more than happy to engage with any follow up consultation or additional work on the report.

The 3 key areas the Committee wanted to raise are:

#### **Limited consultation**

The consultation was heavily slanted towards Welsh Government and local government officers, and only a minority of Standards Committees were involved<sup>3</sup>.

Despite "public confidence" in the Framework being one of the terms of reference of the review<sup>4</sup>; there was no consultation of the public, nor were any elected Members spoken to either (as councillor confidence is also critical).

It is the opinion of the Committee that any changes to the ESF as a result of the Report would be fatally undermined by the lack of engagement with the 2 most important stakeholder groups – complainants (especially among the public) and those who have been subject to complaints (Councillors).

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<sup>1</sup> <https://democracy.monmouthshire.gov.uk/ie/ListDocuments.aspx?CId=145&MId=4798>

<sup>2</sup> Para 1.5 of the report

<sup>3</sup> para 2.14

<sup>4</sup> para 1.2

A subsequent consultation that would be available to these two groups would not be sufficient in itself to reassure the Committee that the formulation of the recommendations themselves had a basis in a balanced set of contributions. The risk is the recommendations are flawed, and subsequent consultation cannot redress this.

## **Community Councillor Behaviour**

The Report repeatedly raises concerns about Community Councillor conduct, for example: *“there is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils<sup>5</sup>”*.

On reading the latest Public Services Ombudsman’s (PSOW) Annual report<sup>6</sup> the Committee notes that there were 167 and 135 code of conduct complaints relating to Town and Community Councils in the years 20/21 and 19/20, compare with 138 and 96 for Principal Councils.

In consideration of the relative number of Councillors in Wales for each type of Council, the figures do not suggest that there such a problem; indeed, it suggest that proportionately complaints about Principal Council Members are far higher.

It is accepted that the numbers alone are insufficient to determine where issues may lie, but the Report did not explain why the current Framework is not dealing with such behaviour which breaches the Code. Effective sanctions are available to APW and Standards Committees, and subsequent publicity should deter future breaches. If the current Framework is failing to deal with particular sorts of behaviour, we need to understand why.

## **Local Resolution of Complaints**

The Committee does not support the proposal to remove the right of the public to complain directly to the PSOW<sup>7</sup>, specifically the recommendation that:

*“The Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman.”*

In the first instance, this is a Framework redefining change that is completely disproportionate to the overarching conclusion that the ESF is fit for purpose, and concerningly seems to draw in part upon the point raised above about Town and Community Councillor behaviour that is not fully evidenced or expanded in the Report.

It must be recognised that to introduce what on the face of it sounds like a reasonable escalation measure is to fundamentally undermine the single most important element of the ESF in Wales – that it is built upon the foundation of an independent PSOW to which everyone has direct, unfettered access should they wish it - this is critical to both public and member confidence.

The Committee is concerned that the obvious hosting of any local resolution would lie with the Monitoring Officer or associated element of a Principal Council. One of the frequent issues cited with the system in England, and the Committee enjoys a membership that includes experience of that system, is that code of conduct matters dealt with by Monitoring Officers there are not perceived as independent, and so biased towards Councillors, by complainants, while at the same time undermining the relationship between the Monitoring

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<sup>5</sup> Page 8

<sup>6</sup> [Annual-Report-and-Accounts-2020-21-Delivering-Justice-FINAL.pdf \(ombudsman.wales\)](#)

<sup>7</sup> para 1.6



Officer and staff and the elected Members of a Council. It is a move that would only weaken and not strengthen what is already a good system in Wales.

There are a host of relevant resourcing issues associated with this recommendation as well and it is felt that it misses a fundamental point. The independence of the PSOW enables the crucial application of the public interest test. If local resolution was required, detached from this critical test, it will increase demand and resource requirements not only with those required to investigate local resolution but at the PSOW as well, not only through the inevitability of appeals, but because the ability Monitoring Officers currently have to triage and treat complaints currently through non-binding advice and an explanation of elements such as the public interest test will be restricted, resulting in greater numbers of complaints needing resourcing.

In a letter to Jayne Bryant MS dated 21st January 2021, Lord Evans the Chair of the Committee on Standards in Public Life stated:

*“... it is vital that the investigative process for complaints is sufficiently independent, so that it is perceived as fair by potential complainants and respondents. An investigatory process that is not perceived as fair will deter complainants from coming forward and will lead to respondents challenging the legitimacy of the process and its outcomes. The former is a particular problem for those who are victims of bullying or harassment, for whom confidence that their complaint will be taken seriously and processed fairly will often determine whether or not they complain at all.”*

Informal local resolution of conduct complaints works well now, it does not require a new process. Removal of the public's right to complain directly to the PSOW would be an unjustified and damaging move towards the English ethical standards framework.

[sent electronically]

Richard Stow

Chair Standards Committee  
Monmouthshire County Council

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# Ombwdsmon Ombudsman

OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU  
PUBLIC SERVICES OMBUDSMAN FOR WALES

## Annual Report and Accounts

2021 / 2022

We can provide a summary of this document in accessible formats, including Braille, large print and Easy Read. To request, please contact us:

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OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU  
PUBLIC SERVICES OMBUDSMAN FOR WALES

## **Annual Report and Accounts 2021/22**

of the Public Services Ombudsman for Wales  
for the year ended 31 March 2022

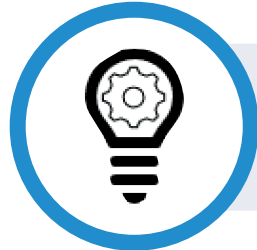
Laid before the Welsh Parliament  
under paragraphs 15, 17 and 18 of Schedule 1  
of the Public Services Ombudsman (Wales) Act 2019.

# Contents

|    |  |            |   |
|----|--|------------|---|
| 06 | <b>Foreword</b>                                      | 60         | <b>Strategic Aim 2<br/>Promote Learning</b>     |
| 09 | <b>The impact of COVID-19</b>                        | 62         | Complaints Standards                            |
| 10 | <b>About us</b>                                      | 64         | Own Initiative Investigations                   |
| 12 | <b>Our Key Performance<br/>Indicators</b>            | 66         | Policy work                                     |
| 14 | <b>Snapshot of the year</b>                          | 67         | Sharing our findings                            |
| 15 | <b>A guide to some terms used<br/>in this Report</b> | 78         | <b>Strategic Aim 3<br/>Use Resources Wisely</b> |
| 16 | <b>Strategic Aim 1<br/>Deliver Justice</b>           | 80         | Training and development                        |
| 18 | Our caseload   | 82         | Health and wellbeing                            |
| 21 | Complaints about public<br>services                  | 85         | Equity, diversity and inclusion                 |
| 39 | Complaints about the Code of<br>Conduct              | 89         | Sustainability                                  |
| 48 | Review and Quality Assurance                         | 90         | Formal accountability                           |
| 50 | How quickly we<br>considered complaints              | 91         | Working with similar bodies                     |
| 52 | What people think about our<br>service               | 92         | Financial Management                            |
| 56 | How accessible we are                                | <b>96</b>  | <b>Accountability Report<br/>2021/22</b>        |
|    |  | <b>124</b> | <b>Annual Accounts<br/>2021/22</b>              |



We have continued to deliver for those who have suffered injustice during the pandemic.



We are proactive, helping the public sector improve during challenging times.



We embrace learning and welcome feedback



We are accountable and transparent about our performance and use of resources.



We strive to ensure and promote equality, diversity and inclusion.



We pull together and support each other.

## Foreword

I promise that this is definitely my last foreword as PSOW!

I became Ombudsman in August 2014. Since then, we have:

- dealt with almost 38,000 enquiries
- considered over 18,000 complaints

- completed just over 2400 investigations
- issued 50 public interest reports
- issued 5 thematic reports and
- published our first 'Own Initiative' investigation report.

I am particularly pleased at the impact our recommendations, including those in the thematic report on Out of Hours care in hospitals, have had. Taken together, our work has made a significant contribution to putting things right for individuals as well as improving services for everyone in Wales.

The past year has been very challenging. Our core function is to consider complaints – about public service providers, or about councillors breaching the Code of Conduct. This year we received over 30% more cases than last year – we also closed a record number of complaints.

We investigated many more complaints about the Councillors' Code of Conduct. Compared to last year, we referred twice as many complaints to Standards Committees and to the Adjudication Panel for Wales. This is still only a small proportion of our complaints about breaches of the Code of Conduct – but we are concerned about this increase.

I am immensely proud that, during my time at the helm, we have succeeded in securing legislative





reform of the office. We now have some of the most comprehensive powers to proactively drive improvement in public services among ombudsman offices in Great Britain.

We made huge progress with those proactive powers during the year:

- We received over two hundred oral complaints
- Our Complaints Standards role now extends to local government, health bodies and some housing associations
- We trained approximately 4000 staff members at these bodies to improve how they handle complaints.

We published our first 'own initiative' investigation report in October, 'Homelessness Reviewed: an open door to positive change'. The report included many recommendations to improve support to some of the most vulnerable service users in Wales. We were also able to use our proactive powers to extend an investigation into a prostate cancer case to include a further 16 affected patients in North Wales.

Our staff worked hard during the year to manage our increasing caseload and promote improvement. But these pressures took their toll. For example, we did not always manage to consider complaints as quickly as we wanted and our staff experienced increased stress because of the increased caseload. As we emerge into the 'new normal' after the pandemic, we consider it likely that our caseload will remain high and it may

continue to increase. We are working hard to find ways to improve how we can deal with cases even more efficiently, but also how we can better support our staff.

When I started this job, I publicly called for innovation to deliver improvement for my office and for public services in Wales. I am incredibly grateful to the Senedd and to my staff for making that ambition a reality. I am also very aware that any legacy from my period in office will be dwarfed by the legacy of the pandemic on public services. I am especially concerned that almost 25% of the Welsh population are on NHS waiting lists - this will prove a huge challenge over the next few years for the NHS and could also impact our work at PSOW.

I wish my staff, my successor Michelle Morris, public services and all our stakeholders all the best for the future.

## **Nick Bennett**

Public Services Ombudsman for Wales

March 2022

As I start my term as Ombudsman I would like to pay tribute to Nick Bennett, my predecessor and to the staff in the Office for their hard work in continuing to deliver services through what has undoubtedly been the most challenging couple of years for the public sector in Wales.

Our public services continue to work under considerable pressure as we all find a way to return to new and improved working arrangements, while coping with the issues that remain a legacy from the pandemic, including backlogs and waiting times for some services and the recruitment and retention of a first class workforce.

Public bodies across Wales have continued to work with us to ensure that we can properly deal with issues when they go wrong and that we all learn lessons from that experience.

During my term in office, I want to build on those good working relationships to ensure our public services in Wales emerge stronger and that service users continue to receive proper redress when things go wrong.

In the autumn, I will share my priorities for the next three years and consult on my first Strategic Plan.

## **Michelle Morris**

Public Services Ombudsman for Wales

20 July 2022



## The impact of COVID-19

The COVID-19 pandemic has affected our office, as it has all other public bodies in Wales. We had to adjust how we organise our work, what demands we placed on bodies in our jurisdiction and how we managed the expectations of our complainants.

However, some of the most striking effects of the pandemic on our office to date have been the dramatic changes in our caseload since 2020.

During 2020/21, the first year of the pandemic, for the first time in many years we saw a drop in the number of new cases reaching our office. We believe that this reflected public sentiment and support for the NHS, with members of the public reportedly being reluctant to complain about a service that was already under strain.

However, this grace period appears to have ended. We have never received more complaints than in 2021/22. Our cases suggest that members of the public are increasingly impatient and distressed by services that, in their view, are failing to meet their needs. As this Report shows, complaints about health boards have increased and the number of new complaints about county councils and social landlords have increased significantly.

Throughout this Report, we explain how this significant increase in our caseload affected our service.

We usually compare our annual performance to the previous year, but 2020/21 was an exceptional year. In this Report, we take the unusual step of comparing our public services, Code of Conduct and review caseload also with 2019/20, the last 'normal' year on record. We think that by doing that we present more accurately and fairly the trends in our work and the performance of public bodies in Wales.

This Report includes key statistics about our complaints trends this year. To be as transparent as possible, we publish more detailed data [on our website here](#).

## About us

### We have three main roles.

- **We investigate complaints about public services.**
- **We consider complaints about councillors breaching the Code of Conduct.**
- **We drive systemic improvement of public services.**

### We are independent of all government bodies and our service is impartial and free of charge.

#### Complaints about public service providers

Our first role is to consider complaints about services provided by devolved public bodies in Wales, including:

- local government (such as county and community councils)
- the National Health Service (such as Health Boards, Trusts, GPs and dentists)
- registered social landlords (housing associations)
- Welsh Government and its sponsored bodies

We can also consider complaints about privately arranged or funded social care and palliative care services. In some specific circumstances, we can look into aspects of privately funded healthcare.

We examine complaints that people have been treated unfairly or have received a bad service through some fault of the service provider.

When we find that something has gone wrong, we can recommend redress, or changes in process, to ensure that service providers do not repeat their mistakes.

**“**The service was excellent, and the outcome achieved was positive. I could not have achieved this outcome without assistance from the ombudsman’s office. They helped me to achieve a sense of fairness.**”**

## Code of Conduct complaints

Our second role is to consider complaints that local councillors have breached their authorities' Codes of Conduct, which set out the recognised principles of behaviour that elected members should follow in public life.

We can consider complaints about elected members of:

- county and county borough councils
- community and town councils
- fire authorities
- national park authorities
- police & crime panels.

Where we find evidence suggesting that the Code has been breached, we refer these cases to a Standards Committee or the Adjudication Panel for Wales for decision.

“ I recognise the understanding and professionalism shown in your contribution to the hearing and deliberation on its outcome. Please accept my gratitude for your management of the case.

We are a “prescribed person” under the Public Interest Disclosure Act for raising whistleblowing concerns about breaches of the Code of Conduct by members of local authorities. We explain this role in more detail in [the Whistleblowing section of the Report](#).

## Systemic improvement of public services

Our third role is to drive broader improvement of public services. The Senedd approved more proactive powers to do this under the Public Services Ombudsman (Wales) Act 2019 (the PSOW Act 2019).

We can investigate on our own initiative even if we have not received a complaint. We talk about this power in more detail in [the Own Initiative section of this Report](#).

We can also set complaints standards for public bodies in Wales. We can publish a statement of principles for complaints handling by public bodies and set model complaints handling procedures for them. We monitor the performance of public bodies in complaint handling, including reviewing their complaint handling data. We also provide training to public bodies on good complaint handling. The [Complaints Standards section of this Report](#) explains how we have taken this power forward.

“ We are very grateful for the time taken to deliver such high-quality training to the Health Board.



## Our Key Performance Indicators

We check how well we perform against a set of measures or Key Performance Indicators (KPIs). Below we explain how we aimed to perform and how we did. We discuss these figures in more detail throughout this Report.

| Performance indicator   | Target   | 2021/22  | 2020/21  | 2019/20  |
|---|----------|----------|----------|----------|
| <b>Our decision times in complaints about public bodies</b>   |          |          |          |          |
| decision that a complaint is not within jurisdiction within 3 weeks   | 90%      | 90%      | 94%      | 95%      |
| decision taken not to investigate a complaint (after making initial enquiries) within 6 weeks                 | 90%      | 83%      | 85%      | 92%      |
| where we seek Early Resolution, decision within 9 weeks   | 90%      | 88%      | 88%      | 94%      |
| decision to investigate and start investigation within 6 weeks of the date sufficient information is received | 80%      | 69%      | 65%      | 67%      |
| <b>Complaints about public bodies which are investigated – cases closed</b>                                   |          |          |          |          |
| cases closed within 12 months   | 85%      | 76%      | 52%      | 81%      |
| <b>Our decision times in complaints about the Code of Conduct</b>   |          |          |          |          |
| decision taken not to investigate within 6 weeks.   | 90%      | 98%      | 90%      | 93%      |
| decision to investigate and start investigation within 6 weeks of the date sufficient information is received | 90%      | 80%      | 76%      | 86%      |
| <b>Code of Conduct complaints which are investigated - cases closed</b>                                       |          |          |          |          |
| cases closed within 12 months   | 90%      | 67%      | 50%      | 88%      |
| <b>Customer satisfaction*</b>   |          |          |          |          |
| we are easy to find   | 91 / 98% | 80 / 95% | 85 / 97% | 91 / 98% |
| we offer a helpful service  | 63 / 83% | 60 / 86% | 62 / 91% | 63 / 83% |
| we clearly explain our process and decision   | 65 / 89% | 65 / 91% | 63 / 96% | 65 / 89% |
| <b>How bodies fulfil our recommendations ('compliance')</b>   |          |          |          |          |
| proportion of recommendations due and complied with by public service providers                               | -        | 81%      | 85%      | 72%      |
| number of compliance visits   | 7        | 6        | 7        | 4        |

| Performance indicator  | Target                | 2021/22               | 2020/21               | 2019/20               |
|--|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>Human resources</b>   |                       |                       |                       |                       |
| completion of the appraisal process  | -                     | 100%                  | 100%                  | 100%                  |
| employee response to staff survey  | -                     | 84%                   | N/A**                 | 92%                   |
| <b>Staff training</b>  |                       |                       |                       |                       |
| proportion of staff achieving target number of days of continuing professional development | -                     | 72%                   | 77%                   | 93%                   |
| <b>Staff attendance</b>  |                       |                       |                       |                       |
| average number of days lost through sickness per member of staff                           | -                     |                       | 3.0                   | 9.0                   |
| proportion of working days lost through staff sickness                                     | -                     | 2.70%                 | 1.14%                 | 3.40%                 |
| proportion of working days lost through short term sickness                                | -                     | 1.04%                 | 0.62%                 | 1.0%                  |
| proportion of working days lost through long term sickness                                 | -                     | 1.70%                 | 0.52%                 | 2.40%                 |
| <b>Financial performance</b>   |                       |                       |                       |                       |
| cash repaid to Welsh Consolidated Fund   | <3%                   | 2.3%                  | 0.4%                  | 1.0%                  |
| unit cost per case   | £540                  | £491***               | £695                  | £521                  |
| support costs as percentage of budget  | <5%                   | 4.2%                  | 4.1%                  | 4.3%                  |
| external Audit Opinion on Accounts   | Unqualified accounts  | Unqualified accounts  | Unqualified accounts  | Unqualified accounts  |
| internal Audit Opinion on internal controls  | Substantial Assurance | Substantial Assurance | Substantial Assurance | Substantial Assurance |
| <b>Complaints about us</b>   |                       |                       |                       |                       |
| number of complaints received  | N/A                   | 32                    | 26                    | 36                    |
| number of complaints upheld  | N/A                   | 12                    | 5                     | 7                     |
| <b>Sustainability</b>  |                       |                       |                       |                       |
| waste (kg)   | 26,000                | 9,205                 | 3,988                 | 26,996                |
| electricity (kWh)  | 104,000               | 73,754                | 71,668                | 104,521               |


\* We present these results for all respondents (the first figure) as well as those satisfied with the outcome (the second figure).

\*\* We carry out our staff survey every two years, so there was no staff survey in 2020/21.


\*\*\* Figures reported for unit costs reflect the approach introduced in 2020/21. The target and previous years' figures have been restated using the same approach, so figures are meaningful.

# Snapshot of the year


- April  
2021**




22 County and County Borough Councils become subject to complaint handling standards.
- May  
2021**




We publish new Code of Conduct Guidance for members of local authorities in Wales.
- June  
2021**




Health Boards and Trusts become subject to complaints handling standards.
- July  
2021**




We issue a public interest report about [Cwm Taf Morgannwg UHB](#) – and our Annual Report 2020/21.
- August  
2021**




We launch a new [Our Findings tool](#). We issue a public interest report about [Betsi Cadwaladr UHB & Denbighshire Council](#).
- September  
2021**




We publish complaints standards data for the first time  
We issue public interest reports about [Betsi Cadwaladr UHB](#) and [Bridgend Council](#).
- October  
2021**




We launch the findings of our first Own Initiative investigation  
We issue [a public interest report about Hywel Dda UHB](#)  
We appear before the Senedd's Finance Committee.
- November  
2021**




We publish our third [Equality and Human Rights Casebook](#).
- December  
2021**



We issue [a public interest report about Cardiff and Vale UHB](#)
- January  
2022**



We publish [revised Principles of Good Administration and Principles of Good Records Management](#).
- February  
2022**



We publish [a public interest report about Cardiff Council](#)
- March  
2022**

20

We refer the 20th complaint about the conduct of councillors in the year and say farewell to outgoing Ombudsman Nick Bennett.



## A guide to some terms used in this Report

### Case

Any matter raised with us by a member of the public.

### Caseload

All cases that we handle.

### Enquiry

A case when someone contacts us with a general query but is not yet ready to complain – or we know straight away that we cannot look into their issue. If that happens, we try to offer advice or direct people to another organisation that can help.

### Pre-assessment

A Code of Conduct case which is not a duly made complaint. People who complain to us about the Code of Conduct need to sign a declaration to say that the details of the complaint are true and they are aware that their details and the complaint will be shared with the member. If they do not sign that declaration, we close the case at the preassessment stage.

### Complaint

A case where we have enough information to suggest that it is something we are able consider.

### Outcome

Our decision after we have considered a complaint.

### Intervention

An outcome in complaints about public services when we decided that something has gone wrong and things must be put right. This could be by making recommendations or agreeing early resolution or settlement of a complaint.

### Referral

An outcome in Code of Conduct complaints where we refer a matter to a Standards Committee or the Adjudication Panel for Wales. We generally do this for cases which involve serious breaches of the Code..

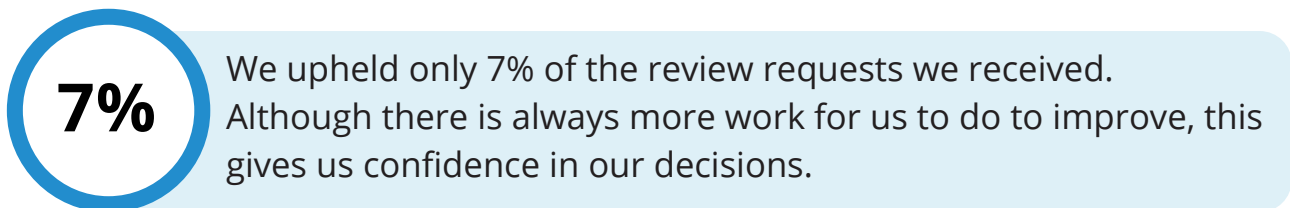
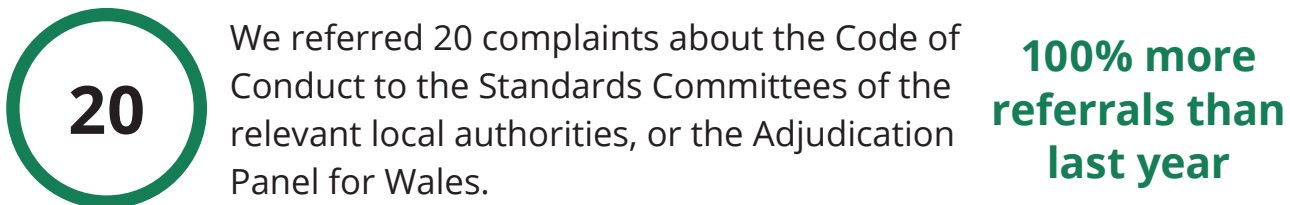
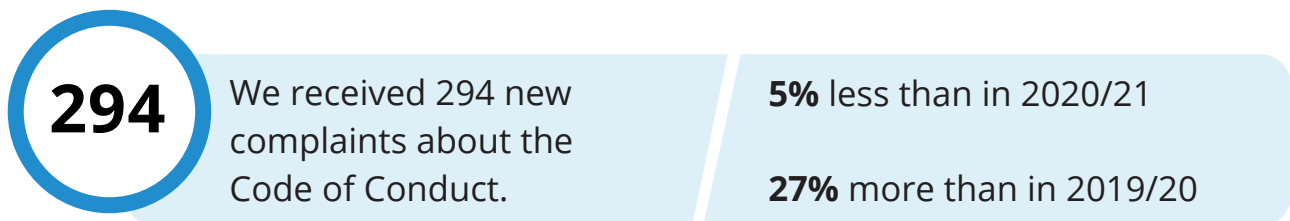
## Strategic Aim 1: Deliver Justice

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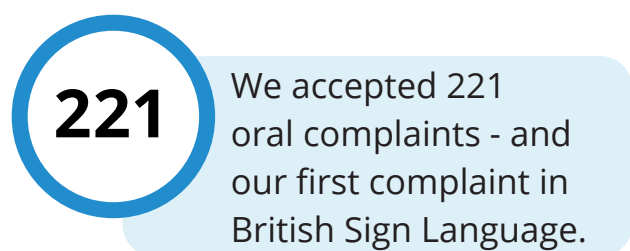
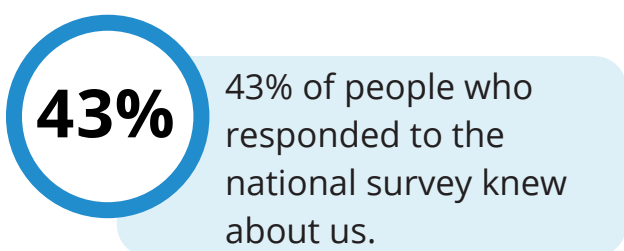
We want our service to be fair, independent, inclusive and responsive to the needs of people who complain to us.



## Deliver Justice: our work at a glance



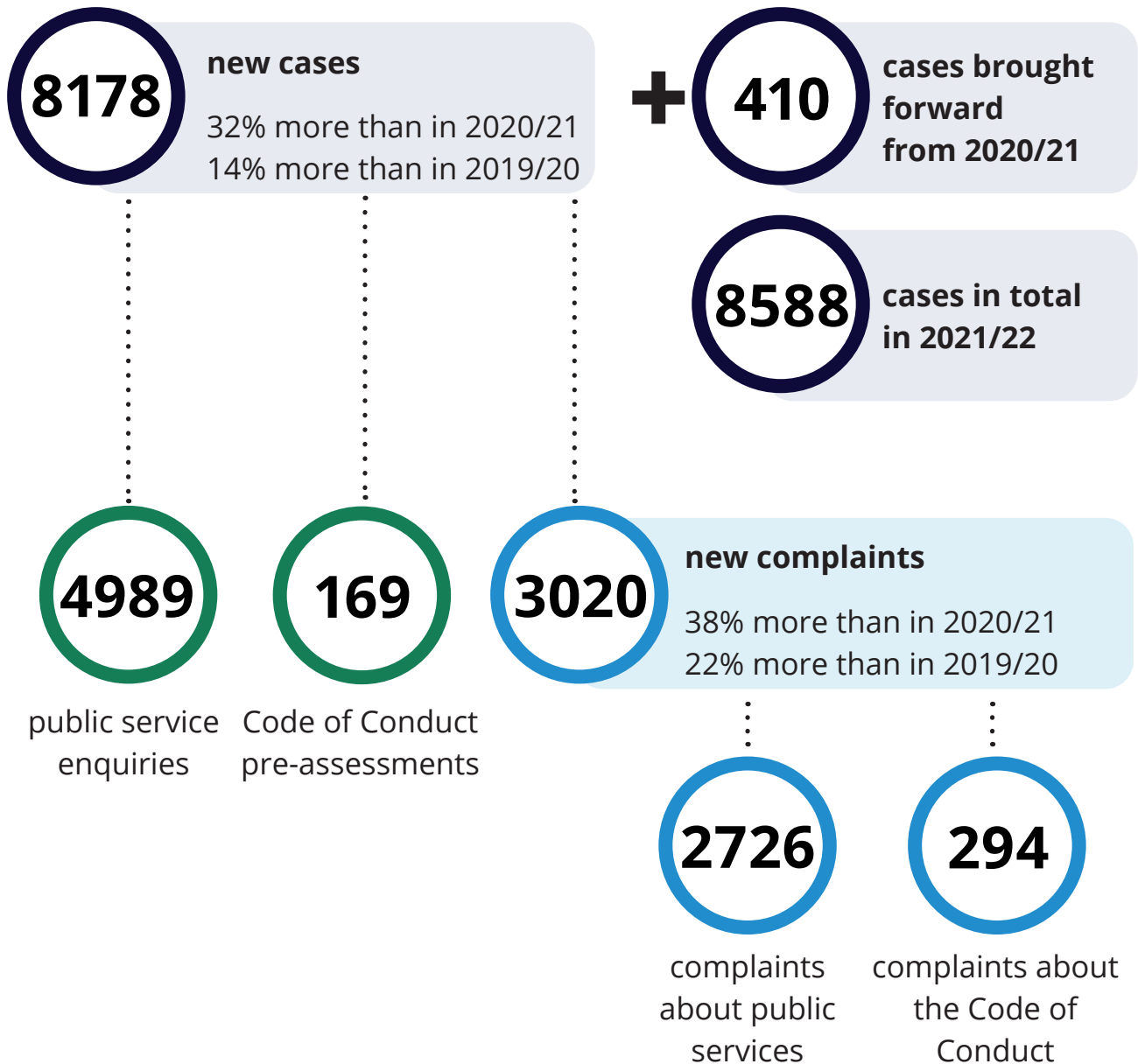
**43%** of our complainants that we asked were happy with our customer service - compared to 51% in 2020/21. However, people were much happier with our service when they were also happy with the outcome of their complaint.



## Our caseload

### New caseload

Every year, thousands of people contact us about public services or about breaches of the Code of Conduct. This year, we received more new cases than ever before.



## Closed caseload

We also closed a record number of cases. We think that this high caseload will continue in 2022/23 and we are looking at ways to improve how we deal with cases even more efficiently.

7983

**closed cases**

28% more than in 2020/21  
11% more than in 2019/20

605

**cases carried over to 2022/23**

This is much more than in 2020/21 (410) and 2019/20 (453) because of the very high number of cases that we had to deal with this year.

4953

public service enquiries

165

Code of Conduct pre-assessments

2865

**closed complaints**

29% more than in 2020/21  
14% more than in 2019/20

2584

complaints about public services

281

complaints about the Code of Conduct

In the next sections of this Report, we focus on the main trends in **our complaints only**.

## Enquiry

This is when someone contacts us with a general query but is not yet ready to complain – or we know straight away that we cannot look into their issue. If that happens, we try to offer advice or direct people to another organisation that can help.

## Complaint

These are cases where we have enough information to suggest that it is something we are able to consider.

## Assessment

We assess if we can and need to investigate the complaint. For example, we check how much time has passed since the issue was complained about.

If we decide that we cannot or should not consider the complaint, we will let the complainant know.

We can propose Early Resolution - suggest that a body takes action to resolve the issue without an investigation.

If we think that we need to get more evidence, or we cannot resolve the issue early, we will investigate.

## Investigation

We look into the complaint in more detail, and we gather additional evidence. We aim to complete our investigations within 12 months or sooner.

If we decide that nothing has gone wrong, we will issue a report and contact the complainant to explain our decision.

If we decide that something has gone wrong, we can:

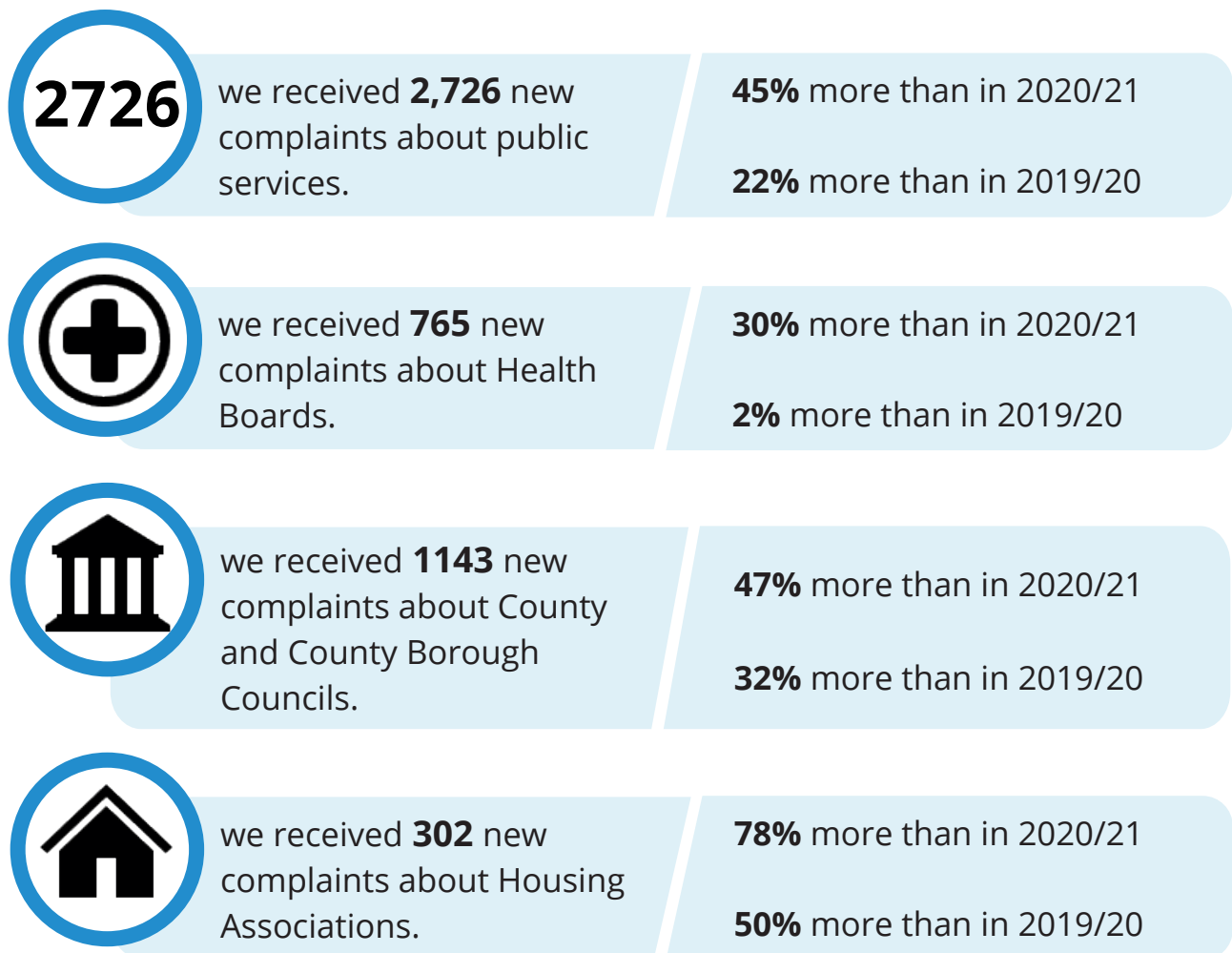
propose a voluntary settlement - similar to Early Resolution.

issue a report upholding the complaint.

# Complaints about public services

## New complaints about public services

We received a record number of complaints about public services, especially about County Councils and Housing Associations. Code of Conduct complaints are covered in a separate section of this Report. In 2021/22:



Find all the complaints data that we refer to in this Report [on our website here.](#)

## Which bodies people complained about

The main bodies that people complain to us about are Health Boards, County Councils and Housing Associations.



### Health Boards

We had 765 new complaints about Health Boards – 30% more than last year, but only 2% more than in 2019/20. This is an increase, but not as significant as for some other bodies in our jurisdiction.

Compared to **2020/21**, we noted increases in complaint numbers for all Health Boards apart from Powys Teaching Health Board.

However, when comparing to **2019/20**, several Health Boards were less complained about this year.

As in previous years, in 2021/22 the most complained about Health Board was Betsi Cadwaladr University Health Board. However, that Health Board was subject to 6% fewer complaints than in 2019/20.

We noted large increases in new complaints about Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board, compared to 2020/21 and 2019/20.

| Health Board             | 2021/22    | Change from 2020/21 % | Change from 2019/20 % | 2020/21    | 2019/20    |
|--------------------------|------------|-----------------------|-----------------------|------------|------------|
| Aneurin Bevan UHB        | 142        | +48%                  | +1%                   | 96         | 140        |
| Betsi Cadwaladr UHB      | 213        | +16%                  | -6%                   | 184        | 227        |
| Cardiff and Vale UHB     | 89         | +44%                  | -11%                  | 62         | 100        |
| Cwm Taf Morgannwg UHB    | 113        | +31%                  | +41%                  | 86         | 80         |
| Hywel Dda UHB            | 88         | +38%                  | -4%                   | 64         | 92         |
| Powys Teaching HB        | 10         | -38%                  | -57%                  | 16         | 23         |
| Swansea Bay UHB          | 110        | +39%                  | +21%                  | 79         | 91         |
| <b>All Health Boards</b> | <b>765</b> | <b>+30%</b>           | <b>+2%</b>            | <b>587</b> | <b>753</b> |





## County and County Borough Councils

We had 1143 new complaints about County and County Borough Councils. This was a large increase – 47% more than last year, and 32% more than in 2019/20.

Compared to **2020/21**, all councils were subject to more complaints except for Blaenau Gwent, Conwy and Swansea. We noted some of the highest increases in new complaints for Neath Port Talbot, Carmarthenshire and Cardiff.

Compared to **2019/20**, all councils apart from Blaenau Gwent, Conwy, Swansea and Powys were subject to more complaints. For many councils we noted very significant increases in new complaints. Some of the highest increases related to Torfaen, Wrexham, Merthyr Tydfil, Neath Port Talbot and the Vale of Glamorgan.

You can find a detailed breakdown of our new complaints about County and County Borough Councils overleaf.



## Housing Associations

Finally, we had 302 new complaints about Housing Associations. The increase in new complaints about these bodies was the most significant – we received 78% more complaints about them than in 2020/21 and 50% more than in 2019/20.

No single organisation was responsible for a large proportion of these complaints. Over the last two years, we had complaints about around 40 different Housing Associations and we rarely received more than 10 complaints about one body.

Almost a half of the complaints that we received this year about housing associations - 46% - was about repairs and maintenance. This is higher than in previous years.

## Our new complaints about County and County Borough Councils:

| County or Count<br>Borough Council                | 2021/22     | Change<br>from<br>2020/21 | Change<br>from<br>2019/20 | 2020/21    | 2019/20    |
|---|-------------|---------------------------|---------------------------|------------|------------|
| Blaenau Gwent                                     | 14          | -7%                       | -18%                      | 15         | 17         |
| Bridgend  | 55          | +77%                      | +62%                      | 31         | 34         |
| Caerphilly  | 60          | +30%                      | +22%                      | 46         | 49         |
| Cardiff   | 182         | +90%                      | +49%                      | 96         | 122        |
| Carmarthenshire                                   | 54          | +100%                     | +29%                      | 27         | 42         |
| Ceredigion  | 52          | +63%                      | +68%                      | 32         | 31         |
| Conwy   | 27          | -16%                      | -7%                       | 32         | 29         |
| Denbighshire                                      | 34          | +6%                       | +6%                       | 32         | 32         |
| Flintshire  | 99          | +68%                      | +62%                      | 59         | 61         |
| Gwynedd   | 39          | +30%                      | +5%                       | 30         | 37         |
| Isle of Anglesey                                  | 29          | +61%                      | +12%                      | 18         | 26         |
| Merthyr Tydfil                                    | 27          | +80%                      | +108%                     | 15         | 13         |
| Monmouthshire                                     | 20          | 0%                        | +25%                      | 20         | 16         |
| Neath Port Talbot                                 | 45          | +137%                     | +105%                     | 19         | 22         |
| Newport   | 40          | +29%                      | +3%                       | 31         | 39         |
| Pembrokeshire                                     | 39          | +39%                      | +56%                      | 28         | 25         |
| Powys   | 55          | +45%                      | -24%                      | 38         | 72         |
| Rhondda Cynon Taf                                 | 51          | +28%                      | +31%                      | 40         | 39         |
| Swansea   | 71          | -3%                       | -23%                      | 73         | 92         |
| Torfaen   | 18          | +50%                      | +260%                     | 12         | 5          |
| Vale of Glamorgan                                 | 61          | +56%                      | +103%                     | 39         | 30         |
| Wrexham   | 71          | +65%                      | +115%                     | 43         | 33         |
| <b>All County and County<br/>Borough Councils</b> | <b>1143</b> | <b>+47%</b>               | <b>+32%</b>               | <b>776</b> | <b>866</b> |

Find all the complaints data that  
we refer to in this Report  
[on our website here.](#)



## What people complained about

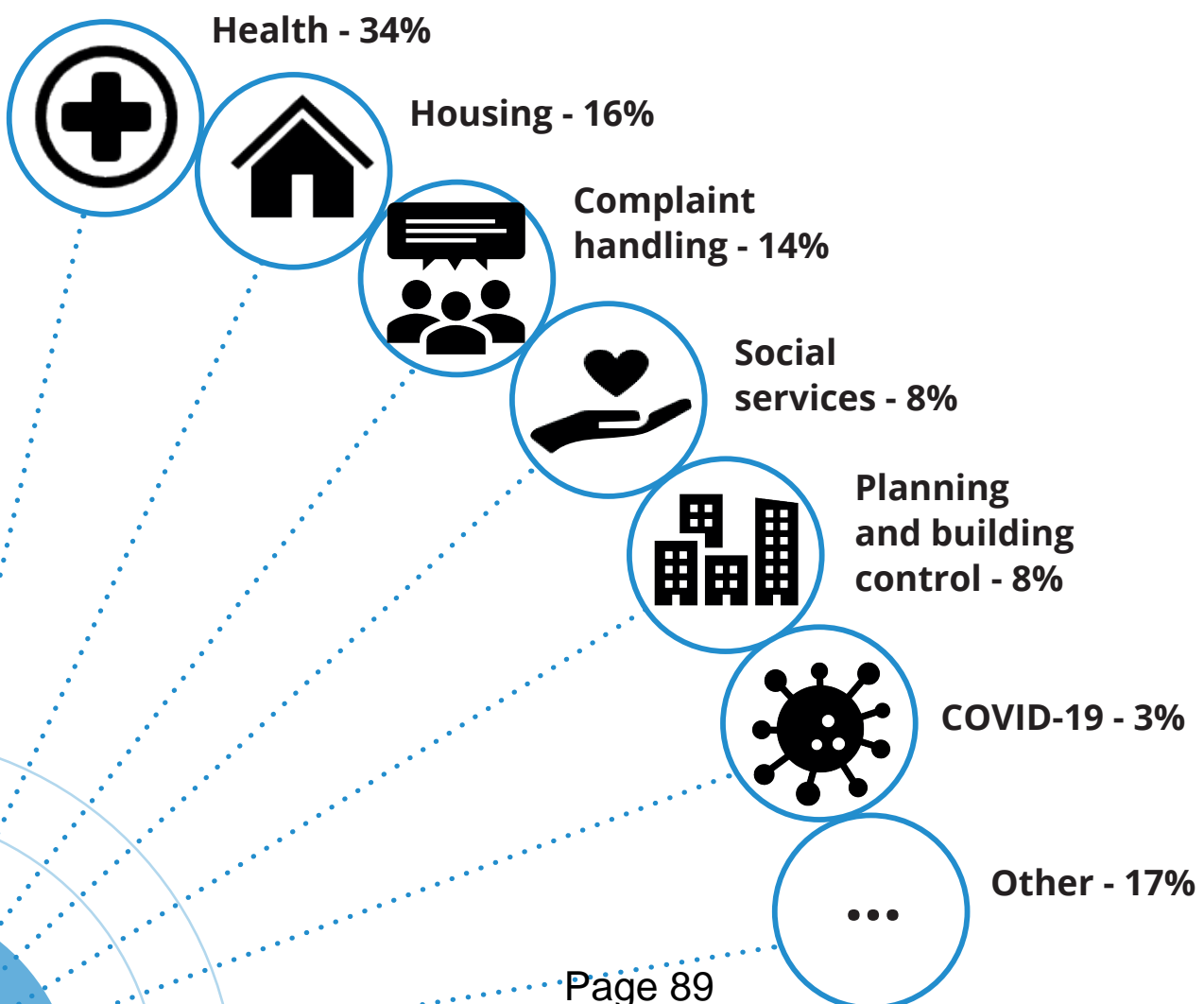
We report our new complaints showing the different public service providers they relate to. However, we also monitor and report on the subject of those complaints.

As in previous years, people complained to us most commonly about health services. 34% of our new complaints were about those services. Still, this was a lower proportion than in the last two years (39% in 2021/22 and 41% in 2019/20)

The proportion of complaints about problems with how public bodies handled complaints has increased to

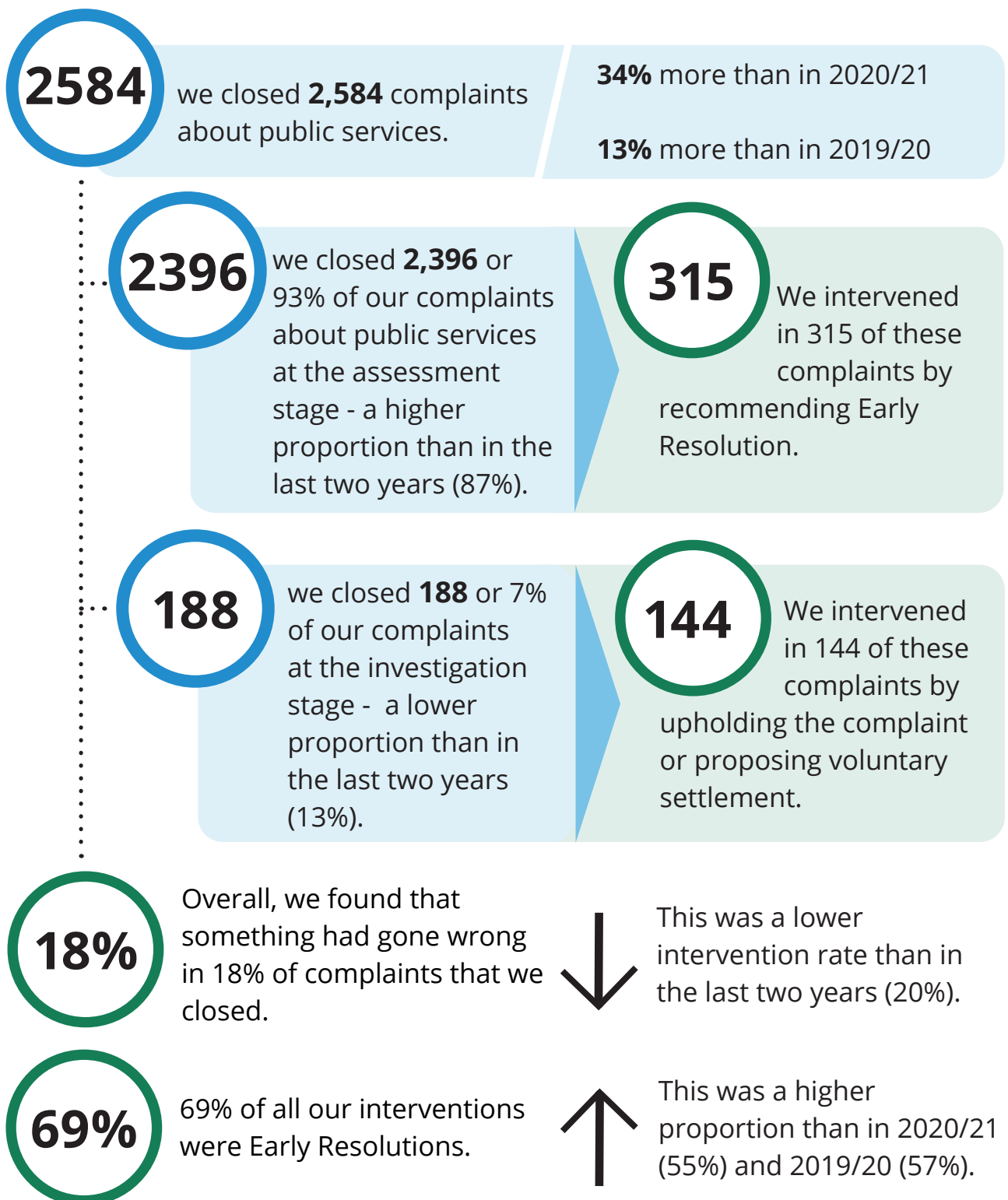
14% (from 12% in 2020/21 and 9% in 2019/20). We hope that we will start to see fewer of those complaints, as public bodies put into action the learning from our complaints standards training. However, we also know that many public bodies have received many more complaints this year. This can influence the standard of complaint handling.

This year, we recorded some complaints as being related to COVID-19. These are cases where the impact of the pandemic was central to the issue complained about. Around half of these complaints related to health services. However, these COVID-19 related complaints account for a small proportion of new complaints – around 3%.



## Closed complaints about public services

We closed a record number of complaints this year and we found that something had gone wrong in about the same proportion of complaints as over the last two years. In 2021/22:



## How many complaints we closed

This year, we closed 2,584 complaints about public services – 34% more than in 2020/21 and 13% more than in 2019/20.



### **Our closed complaints: Health Boards**

We closed 691 complaints about Health Boards. This was 10% more than last year, but 12% less than in 2019/20.

However, we have many more complaints about Health Boards still to close. 271, or just over a half of the complaints about public services that we still had open at the end of the year were about Health Boards. These are often the most complicated complaints, which take longest to investigate.

We have now closed all the outstanding complaints about the two former Health Boards - Abertawe Bro Morgannwg Health Board and Cwm Taf University Health Board.



### **Our closed complaints: County and County Borough Councils**

We also closed 1108 complaints about County and County Borough Councils – 42% more than last year and 26% more than in 2019/20.

## Complaint stages



By looking at what stage we closed complaints we can better understand the complaints reaching our office.

There are legal restrictions on the cases we can investigate. To investigate, the body or the matter complained about must be in our jurisdiction. We must know that the body complained about has had a reasonable chance to respond to the complaint. We also need to receive a complaint within 12 months of the events complained about (or within 12 months of the person complaining becoming aware of the issue).

Many of the complaints that we close at assessment stage are cases where the complaint was made to us too early, too late or where the complainant did not yet have the information that we needed to consider their complaint in more detail.

## When we closed complaints

### Assessments

This year, we closed 2396 or 93% of our complaints about public services at the assessment stage. This was a large proportion - higher than in the last two years (87%).

The main reason for closing complaints at that initial stage was because they were premature – they reached us before the relevant body could respond to them. That was the case for 32% of the complaints we rejected at assessment in 2021/22 (compared to 28% in 2020/21).

This could mean that people who contact us do not understand when we can consider their complaint.

However, it could also mean that the bodies in our jurisdiction are taking too long to consider the complaints themselves.

Other common reasons included that there was no evidence of maladministration or service failure (22%); and that we believed that we could have achieved little further for the complainant (12%).

### Investigations

We closed 188 or 7% of our complaints at the investigation stage. This was a lower proportion than in the last two years (13%).

This reflects, amongst other things, the fact that case numbers in 2020/21 were lower, with fewer investigations commenced that year and concluded in 2021/22.

We also had more investigations open at the end of the 2021/22 year. Of the complaints that we still had open at the end of the year, 217, or about 36% were being investigated – and 175 of these investigations were about health.

Unfortunately, this is a high number of complex cases that we simply did not manage to close during the year because of case complexity and our workload pressures.

As in previous years, over 80% of the investigations that we completed during the year related to health services. This tends to happen because complaints about health services are usually most complex. We often cannot make our decision on a health case without investigating in detail and commissioning expert clinical advice.

## Our interventions



The number of complaints that we received or closed does not tell us how well bodies in our jurisdiction deliver services. To understand that, it is more useful to look at how many complaints we intervene in.

Intervention means that we found that something had gone wrong and that the public body needed to put things right. We can intervene at assessment stage by suggesting an 'Early Resolution'. We can also intervene after we investigated - by publishing a report which upholds a complaint, or by suggesting a settlement between the body and the person complaining.

### When we intervened

We intervened in 459 or 18% of complaints about public services that we closed in 2021/22.

Although this is a higher number of interventions than in the last two years, it is a smaller proportion of our closed complaints overall - 18%, compared to 20% in the last two years.

In 315 of these complaints, or about 69% of all our interventions, we proposed an Early Resolution at the assessment stage.

This was a higher proportion than last year (55%) and in 2019/20 (57%).

Many people complaining to us want to see their case resolved quickly and investigations take significant time and resources. We are happy to have resolved more complaints using this approach.

In the other 144 complaints that we intervened in, we issued a report upholding the complaint or proposed a voluntary settlement.

### Our reference: 202105152



Ms X complained about how Conwy County Borough Council managed a Gypsy Traveller site and how residents were reimbursed for their costs in carrying out routine maintenance. She was also concerned that the Council stated that officers would not deal directly with residents if they made allegations of racism. Although we saw evidence that the Council had been acting to address the situation, we were concerned that some of these matters had been ongoing for some time. We agreed with the Council that it would:

- provide a new draft management agreement to the residents and
- reimburse their outstanding costs.

### Our reference: 202103182



Mr A complained to us that, in March 2020, Hywel Dda University Health Board cancelled his orthopaedic operation because of the pandemic and, by August 2021, he was yet to hear when his operation would happen. We acknowledged that the Health Board's services had been severely disrupted by the pandemic, causing delays. However, we were concerned that the Health Board did not update Mr A on his place on the waiting list. We agreed with the Health Board that it would:

- update Mr A and explain the situation
- confirm how it manages and reviews the orthopaedic waiting list to ensure that Mr A receives his operation as soon as possible.

### Our reference: 202103058



Ms D complained that she had incurred a debt after the Student Loans Company (SLC) gave her wrong information about funding available for her tuition fees. Only after she started her course, SLC told her that the funding support was not available to her. Although Ms D left the course immediately, she still incurred a debt of tuition fees for a term. We decided that, since the information that Ms D received from SLC was not correct, SLC should reimburse Ms D for her time and trouble, as well as cover the tuition fee debt.





### Our interventions: Health Boards

We intervened this year in a slightly lower proportion of complaints about Health Boards – 30%, compared to 33% last year and 31% in 2019/20.

We noted the highest intervention rates for Powys Teaching Health Board (50%). However, we closed this year only 6 complaints about that Health Board. The intervention rate for other Health Boards was between 34% (for Aneurin Bevan University Health Board) and 22% (for Cardiff and the Vale University Health Board).

Compared to **2020/21**, our intervention rate this year increased only for Powys

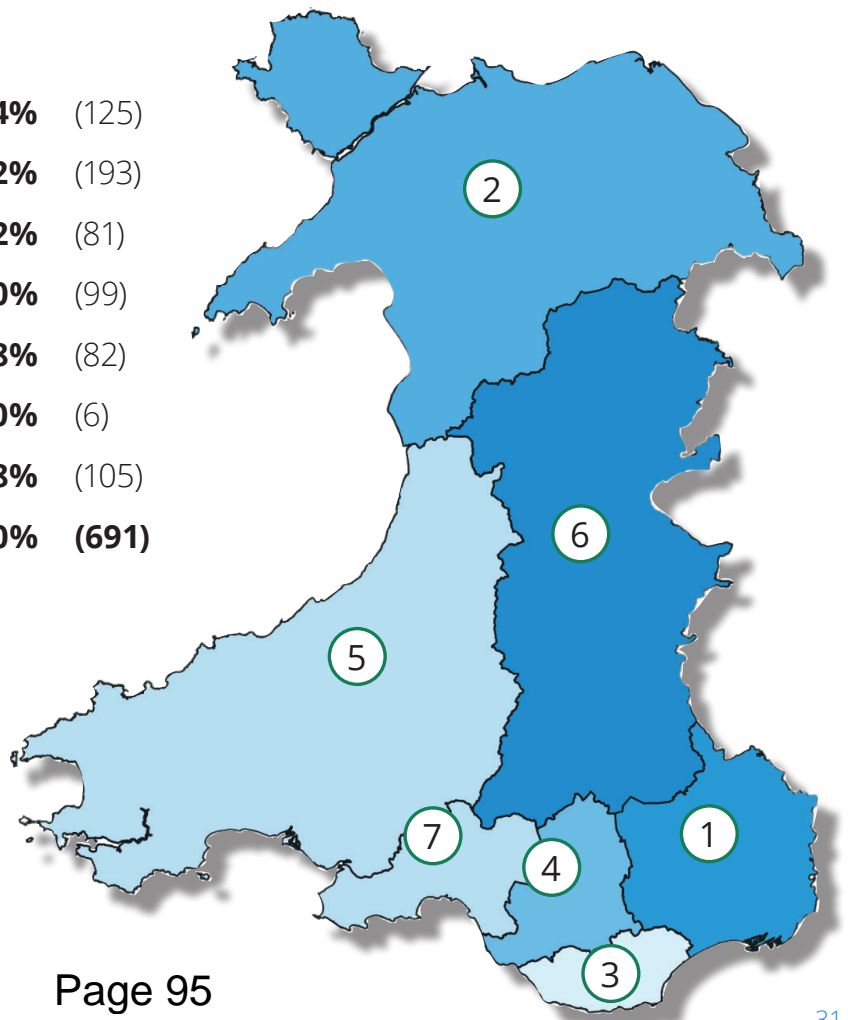
Teaching Health Board and Cwm Taf Morgannwg University Health Board.

However, compared to **2019/20**, we intervened in a higher proportion of complaints for several Health Boards. We noted the highest increases for Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board.

We notice that, this year, we received many more new complaints about Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board and, compared to 2019/20, we intervened in a much higher proportion of complaints as well. We will be working with these two Health Boards to understand why that was the case.

|   |                       |            |              |
|---|-----------------------|------------|--------------|
| ① | Aneurin Bevan UHB     | <b>34%</b> | (125)        |
| ② | Betsi Cadwaladr UHB   | <b>32%</b> | (193)        |
| ③ | Cardiff and Vale UHB  | <b>22%</b> | (81)         |
| ④ | Cwm Taf Morgannwg UHB | <b>30%</b> | (99)         |
| ⑤ | Hywel Dda UHB         | <b>28%</b> | (82)         |
| ⑥ | Powys Teaching HB     | <b>50%</b> | (6)          |
| ⑦ | Swansea Bay UHB       | <b>28%</b> | (105)        |
|   | <b>All</b>            | <b>30%</b> | <b>(691)</b> |

Above, we list our rate of intervention this year for each Health Board. For context, the number of all the complaints about it that we closed is noted in brackets.





### Our interventions: County and County Borough Councils

We intervened this year in a slightly higher proportion of complaints about County and County Borough Councils – 14% compared to 13% over the last two years.

We recorded the highest intervention rates for Ceredigion County Council (28%) and Cardiff Council (28%). We intervened in the lowest proportion of complaints for Blaenau Gwent Council (0%) and Pembrokeshire Council (5%).

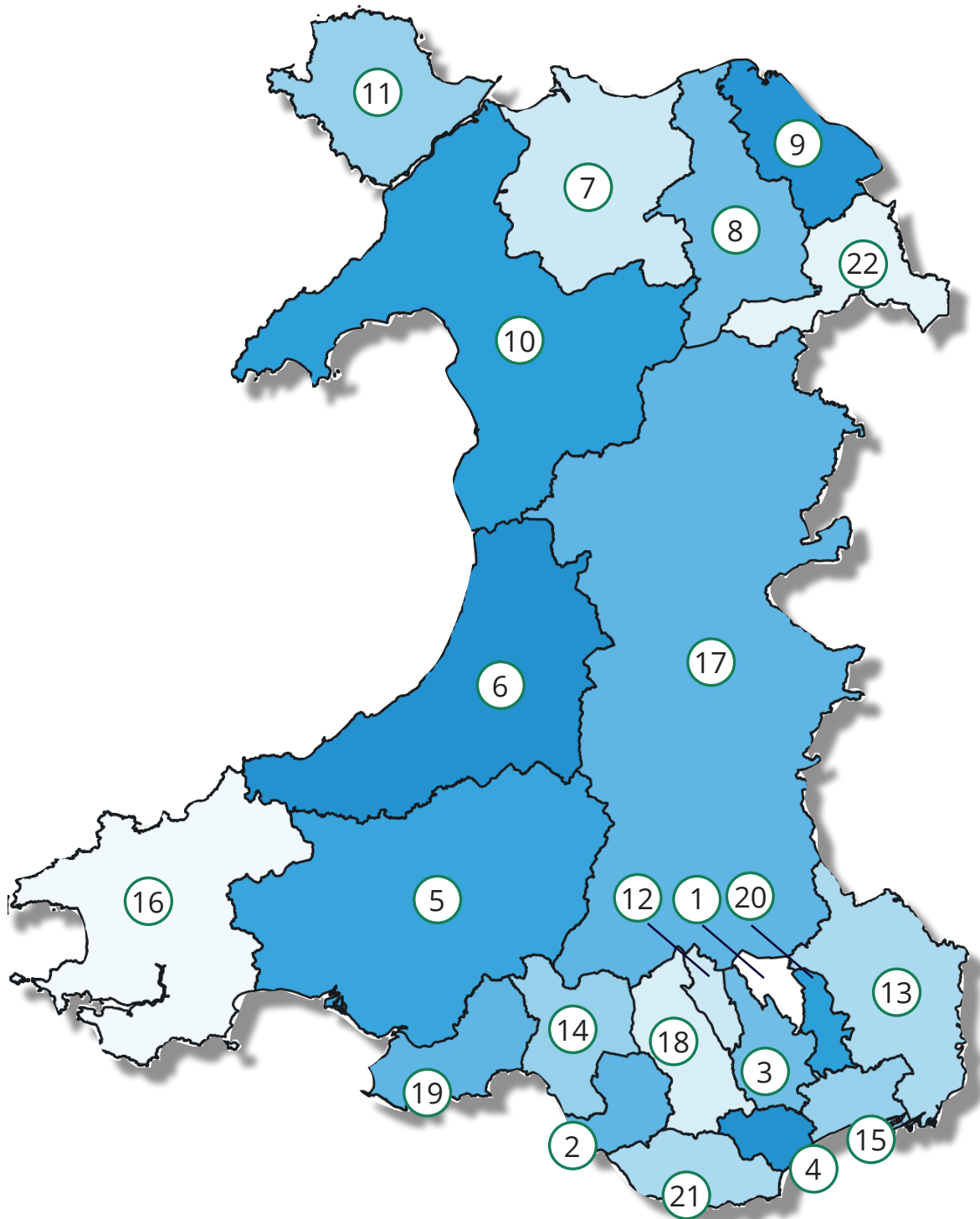
Compared to **2020/21**, our rate of intervention decreased for many councils, such as Conwy, Carmarthenshire, Pembrokeshire and Wrexham. However, for some councils, such as Ceredigion and Torfaen, we intervened in a much higher proportion of complaints.

Compared to **2019/20**, our rate of intervention decreased for councils such as Pembrokeshire, Torfaen and Conwy. However, our rate of intervention rate increased noticeably for some councils, including Ceredigion, Bridgend and Cardiff.

During the year, we have continued to work with County Councils as part of our Complaints Standards role to help improve public services. We will continue this work during 2022/23, focusing on those councils for which our intervention rate was the highest.

Below, we list our rate of intervention this year for each Council. For context, the number of all the complaints about it that we closed is noted in brackets.

|    |                                      |            |               |
|----|--------------------------------------|------------|---------------|
| 1  | Blaenau Gwent                        | <b>0%</b>  | (13)          |
| 2  | Bridgend                             | <b>13%</b> | (54)          |
| 3  | Caerphilly                           | <b>12%</b> | (58)          |
| 4  | Cardiff                              | <b>28%</b> | (159)         |
|    | Cardiff Council-<br>Rent Smart Wales | <b>6%</b>  | (16)          |
| 5  | Carmarthenshire                      | <b>14%</b> | (49)          |
| 6  | Ceredigion                           | <b>28%</b> | (46)          |
| 7  | Conwy                                | <b>8%</b>  | (24)          |
| 8  | Denbighshire                         | <b>12%</b> | (33)          |
| 9  | Flintshire                           | <b>16%</b> | (94)          |
| 10 | Gwynedd                              | <b>15%</b> | (41)          |
| 11 | Isle of Anglesey                     | <b>11%</b> | (28)          |
| 12 | Merthyr Tydfil                       | <b>8%</b>  | (26)          |
| 13 | Monmouthshire                        | <b>10%</b> | (21)          |
| 14 | Neath Port Talbot                    | <b>11%</b> | (45)          |
| 15 | Newport                              | <b>11%</b> | (36)          |
| 16 | Pembrokeshire                        | <b>5%</b>  | (40)          |
| 17 | Powys                                | <b>13%</b> | (55)          |
| 18 | Rhondda Cynon Taf                    | <b>7%</b>  | (45)          |
| 19 | Swansea                              | <b>13%</b> | (76)          |
| 20 | Torfaen                              | <b>10%</b> | (20)          |
| 21 | Vale of Glamorgan                    | <b>15%</b> | (62)          |
| 22 | Wrexham                              | <b>6%</b>  | (67)          |
|    | <b>All</b>                           | <b>14%</b> | <b>(1108)</b> |



Find all the complaints data that we refer to in this Report [on our website here.](#)

## Recommendations

When we find that something has gone wrong with public services, we recommend that the body that provided those services puts things right. In 2021/22:

**1,131**

we issued 1131 recommendations to public service providers.

**£132k**

we recommended over £132,000 of financial redress – compared to £62,000 in 2020/21 and £80,000 in 2019/20.

Often, when things have gone wrong, most people simply want to receive a response and an apology, or to understand why things happened the way they did.

However, sometimes it is not enough to put things right for the person who complained. Many people who complain to us want to make sure that others will not have to face the same injustice.

We focus on putting things right for people who suffered injustice and on making sure that lessons are learned. However, we can also recommend that a body pays a person, for example for their time, their trouble, or for damage, loss or avoidable costs incurred. In 2021/22, 15% of our recommendations involved this kind of financial redress and we recommended over £132k of financial redress in total.

Of our recommendations,

- 20% were about an apology
- 12% were about the body responding to the initial complaint
- 6% were about the body explaining better why it acted the way it did
- 12% were about a reviews or changes to processes or a Quality Audit
- 11% were about the body letting its staff know about the issues we found
- 3% were about the body organising training for its staff.

## Our reference: 201904733



Ms R contacted us following a fall by her mother, Mrs A, when in the care of Betsi Cadwaladr University Health Board. Ms R complained that the Health Board did not take the right action to reduce the risk of Mrs A falling while she was walking to the bathroom. Among other issues, she also complained about how the Health Board investigated the incident and how it communicated with her and her mother. We did not uphold all aspects of Ms R's complaint. However, we agreed that it seemed that the Health Board did not do everything that it should have done to protect Mrs A from the fall. We also agreed that there were issues with the Health Board's investigation and communication. Our recommendations in this case included that the Health Board:

- apologises to Ms R and Mrs A and offers Mrs A £250 in recognition that it did not investigate the fall as it should have
- reminds its staff about the importance of clear communication, detailed record keeping and comprehensive investigations when incidents occur
- considers the incident, and how it affected Mrs A, under a process akin to Putting Things Right (PTR).

After it considered the incident as we recommended, the Health Board offered Mrs A significant financial compensation.

“Your recommendations will help others following down this difficult path and I am glad their journey may be easier as a result. We feel we now have had a voice and are not invisible anymore - that means a great deal. Thank you.

“We take comfort in the thought that all involved have learned some meaningful lessons and hopefully as a result of your investigation, no other family may experience the situation we found ourselves in.

## Compliance

Our recommendations aim to put things right, secure justice and improve services for the benefit of the public - not just for those who complain.

However, for these recommendations to have impact, public bodies must act on them.

When we make recommendations, we agree a date by which they need to comply and we ask them to send evidence that they have complied. If public bodies do not comply, we can issue a 'special report', which we lay before the Senedd. In 2021/22:

**81%**

we received evidence of compliance with 81% of recommendations due during the year – compared to 85% last year and 72% in 2019/20.

**0**

we did not issue any special reports.

This year, we revised our processes around checking and recording evidence that service providers complied with our recommendations. We have noticed that this work is beginning to show improvements in compliance performance.

This year, bodies in our jurisdiction gave us evidence that they complied with 81% of the recommendations that they were supposed to implement during the year. This is similar to 85% last year.

For the remaining 19% of recommendations, we are awaiting evidence from the bodies. We continue to follow this up.





**“Your professionalism, integrity and honesty have exceeded our expectations. Although there are no celebrations to be had, you have now provided the bitter sweet confirmation that our concerns were well founded.**

## Pre-assessment

A Code of Conduct case which is not a duly made complaint. People who complain to us about the Code of Conduct need to sign a declaration to say that the details of the complaint are true and they are aware that their details and the complaint will be shared with the member. If they do not sign that declaration, we close the case at the preassessment stage.

## Complaint

A case where we have enough information to suggest that it is something we are able consider.

## Assessment - our two-stage test

We apply our two-stage test:

- is there enough evidence that the councillor may have breached the Code of Conduct?
- is it in the public interest that we investigate?

If we decide that we cannot or should not consider the complaint, we will let the complainant know.

We can refer the complaint to the council's Clerk or Monitoring Officer to be resolved locally.

If we decide that the complaint passes our two-stage test, we will start an investigation.

## Investigation

We look into the complaint in more detail, and we gather additional evidence. We aim to complete our investigations within 12 months or sooner.

We may find that there was no breach of the Code of Conduct.

We may discontinue our investigation - or decide that we do not need to take any further action.

We refer the most serious breaches of the Code of Conduct to the Adjudication Panel for Wales or to Standards Committees.



# Complaints about the Code of Conduct

## New Code of Conduct complaints

Compared to last year, we received fewer complaints about the Code of Conduct. However, last year the volume of those complaints was unusually high. Compared to 2019/20, we received many more new Code of Conduct complaints. We again saw more complaints about members of Town and Community Councils. In 2021/22:

**294**

we received **294** new complaints about the Code of Conduct.

**5%** less than in 2020/21

**27%** more than in 2019/20



**171** complaints about councillors at Town and Community Councils.

**2%** more than in 2020/21

**27%** more than in 2019/20



**114** new complaints about councillors at County and County Borough Councils.

**17%** less than in 2020/21

**19%** more than in 2019/20



about a half of our new complaints about the Code of Conduct was about the promotion of equality and respect. This is a slightly lower proportion than in 2020/21.



Find all the complaints data that we refer to in this Report [on our website here.](#)

## Who people complained about

People complain to us mainly about the conduct of councillors at Town and Community Councils and County and County Borough Councils.

Compared to 2020/21, we had 2% more complaints about councillors at Town and Community Councils. 58% of

our new complaints about the Code of Conduct were about councillors at those bodies – a similar proportion as over the last two years. However, we had 17% fewer complaints about councillors at County and County Borough Councils.

The table below shows the number of our new complaints about councillors at different bodies.

| Body                               | 2021/22    | 2020/21    | 2019/20    |
|------------------------------------|------------|------------|------------|
| Town and Community Councils        | 171        | 167        | 135        |
| County and County Borough Councils | 114        | 138        | 96         |
| National Parks                     | 5          | 2          | 0          |
| Fire Authorities                   | 0          | 1          | 0          |
| Police and Crime Panels            | 4          | 0          | 0          |
| <b>Total</b>                       | <b>294</b> | <b>308</b> | <b>231</b> |

## What people complained about

We report the subject of the Code of Conduct complaints based on [the Nolan Principles](#), which are designed to promote high standards in public life.

The table below shows the proportion of complaints that we received for each subject.

| Subject                                  | 2021/22 | 2020/21 | 2019/20 |
|--|---------|---------|---------|
| Accountability and openness              | 5%      | 4%      | 11%     |
| Disclosure and registration of interests | 11%     | 14%     | 17%     |
| Duty to uphold the law                   | 9%      | 8%      | 7%      |
| Integrity                                | 8%      | 12%     | 10%     |
| Objectivity and propriety                | 11%     | 5%      | 2%      |
| Promotion of equality and respect        | 51%     | 55%     | 49%     |
| Selflessness and stewardship             | 5%      | 2%      | 3%      |

As in previous years, about a half of all new Code of Conduct complaints that we received was about 'promotion of equality and respect'.

Many cases that we categorise under 'respect' are lower-level complaints. These are the ones where we tend to decide quickly that we will not investigate, or where we recommend that the complaint is resolved locally.

However, some of these complaints and many of those that we categorise under 'equality' commonly involve more serious allegations of bullying or discrimination.

The 'two stage test' that we apply when deciding cases helps us focus our resources on such serious allegations.

## Our two-stage test

When we assess a complaint about the Code of Conduct, we use a two stage test to decide whether we should investigate it.

Firstly, we decide if we have enough evidence to suggest that there may have been a breach of the Code of Conduct.

Secondly, we decide if an investigation would be 'in the public interest'. Public interest can be described as something which is of serious concern or benefit to the public.

We will not investigate a complaint that does not pass this test.

## Our reference: 201906362



The complainant in this case alleged that a councillor from Abertillery and Llanhilleth Community Council had shown a disregard for the principle of equality. This was demonstrated by making comments about another member's hearing impairment and deliberately making it difficult for that member to participate in Council meetings.

We investigated this complaint and referred our report on this investigation to the Adjudication Panel for Wales. The Panel decided that the councillor breached 4 paragraphs of their Council's Code of Conduct, including by not showing respect and consideration for others and by using bullying behaviour. He also breached the Code for failing to engage with the investigation.

The Panel suspended the councillor for 10 months.

## Closed Code of Conduct complaints

Whilst we closed slightly fewer Code of Conduct complaints than last year, we investigated a much higher proportion. This year, we also referred twice as many complaints to the Adjudication Panel for Wales and Standards Committees as last year. This means that we saw many more potentially serious issues that could undermine public confidence in the people who represent them. In 2021/22:

**281**

we closed 281 complaints about the Code of Conduct.

**3%** less than in 2020/21

**20%** more than in 2019/20

**39**

we completed 39 investigations.

**63%** more than in 2020/21

**18%** more than in 2019/20

**20**

we referred 20 complaints to the Standards Committees of the relevant local authorities, or the Adjudication Panel for Wales. This was 100% more than last year.

### Code of Conduct referrals

*i*

Following consideration, we investigate only a small proportion of the Code of Conduct complaints we receive. This reflects that we will only investigate the most serious complaints to ensure that we use our resources wisely.

In cases where we investigate and have evidence to suggest there may have been a serious breach of the Code of Conduct, we refer the complaint and our findings to a local Standards Committee or to the Adjudication Panel for Wales. It is for those bodies to independently look at the evidence we have gathered, together with any information put forward by the councillor concerned and decide whether the councillor has breached the Code of Conduct and if so, what penalty, if any, should be imposed.

## Main trends

This year we closed 281 Code of Conduct complaints – 3% less than last year, but 20% more than in 2019/20.

We closed 86% of complaints after initial assessment. However, we closed investigations into 39 complaints - 63% more than last year and 18% more than the year before.

In 19 of the complaints that we investigated, we decided that either the member did not breach the Code of Conduct, or it was appropriate to discontinue the investigation or we did not need to take further action. The main reasons we might decide no further action is necessary are if the councillor has acknowledged their behaviour and apologised, or has taken steps to put things right.

However, we referred 20 of the complaints that we investigated to the Standards Committee of the relevant local authority, or the Adjudication Panel for Wales.

## Referrals

In 2021/22 we made:

- 11 referrals to Standards Committees
- 9 referrals to the Adjudication Panel for Wales.

We believe that it was necessary to refer those complaints to maintain public confidence in those holding public office.

Although this means that we still refer a very small proportion of all Code of Conduct complaints received, it was more than half of those we decided to investigate.

It was also twice as many as last year and the highest number of referrals that we made since 2012/13.

We are concerned about this increase. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy.

It takes time for Standards Committees and the Adjudication Panel for Wales to consider our referrals.

Of the 20 complaints we referred during 2021/22, they have, by 31 March 2022, considered 11.

Overleaf, we give examples of two decisions by these bodies on our referrals issued this year.

**The Adjudication Panel for Wales and Standards Committees upheld and found breaches in all our referrals they considered in 2021/22.**

**This gives us additional assurance that our process for considering these complaints is sound.**

### **Our reference: 201903571**



In this complaint, the councillor represented Caerphilly County Borough Council as a member of the Cardiff Capital Region (CCR) City Deal's Regional Cabinet. The complaint was that he had purchased shares in a company that had been leased premises by CCR City Deal and that he had then not declared an interest as appropriate

Following our referral, the Adjudication Panel for Wales decided that the councillor had improperly used his position in attempting to gain an advantage for himself by purchasing shares in a company after receiving confidential information relating to the Cardiff Capital Region City Deal. It also found that the councillor had a personal and prejudicial interest in the company which he had failed to declare and he did not leave a meeting when the matter was being considered by the Council.

The Panel suspended the councillor 5 months for several breaches of the Code of Conduct.

### **Our reference: 201906873**



We received a complaint from the Chair of the Personnel Committee of Tywyn Town Council that a member of that Council had been disrespectful to the Clerk and had repeatedly undermined her.

Following our referral, Gwynedd Council's Standards Committee found that the member had used discriminatory language towards the Clerk relating to her gender and had used disrespectful, bullying and harassing behaviour towards her.

A censure was the only sanction available to the Standards Committee as the member had resigned shortly before the hearing. However, the Committee put on record that, had the member not resigned, he would have been suspended for 6 months.


## Promoting better practice

We would want to see the overall number of low-level complaints about members of Town and Community Councils reduce and we are also concerned about the high number of referrals this year.

We strongly believe that the way to overturn these trends is through training for councillors on the Code of Conduct. We would also encourage greater use of local resolution procedures. These procedures can deal with problems early and prevent the need for further escalation to our office, which can improve working relationships.

Since not all members take up opportunities to undertake training, we are pleased that, under the Local Government and Elections (Wales) Act 2021, Town and Community Councils must now make and publish a plan about the training provision for its members and staff. The first training plans must be ready and published by 5 November 2022. We expect these plans to include training about the Code of Conduct.

We also welcome the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour. We look forward to working with Monitoring Officers and Standards Committees as they take up their additional duties.



**Last year, Richard Penn (formerly the National Assembly for Wales Commissioner for Standards) undertook, on behalf of the Welsh Government, an independent review of the Ethical Standards Framework for Wales.**

**We look forward to working with the Welsh Government and other key stakeholders on matters arising from the Penn review.**



## Whistleblowing disclosure report

Since 1 April 2017, we are a 'prescribed person' under the Public Interest Disclosure Act 1998. The Act provides protection for employees who pass on information concerning wrongdoing in certain circumstances. The protection only applies where the person who makes the disclosure reasonably believes that:

1. they are acting in the public interest, which means that protection is not normally given for personal grievances.
2. the disclosure is about one of the following:
  - criminal offences (this includes financial improprieties, such as fraud)
  - failure to comply with duties set out in law
  - miscarriages of justice
  - endangering someone's health and safety
  - damage to the environment
  - covering up wrongdoing in any of the above categories.

As a 'prescribed person', we are required to report annually on whistleblowing disclosures made **in the context of Code of Conduct complaints only**.


In 2021/22, we received 27 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. Almost a half of those disclosures (12) related to allegations that the members concerned had 'failed to promote equality and respect'. We investigated 11 of these complaints. So far, we have closed one of those investigations. We decided in that case that no further action was necessary.

We concluded investigations into 8 relevant complaints which were ongoing from 2020/21. Of these:

- we referred one case to a Standards Committee. The Committee decided that there was a breach of the Code of Conduct and censured the member.
- we referred one case to the Adjudication Panel for Wales. The Panel has not yet decided on that complaint.
- in three cases, we discontinued the investigation.
- In three cases, we decided that we did not need to take any action further action in respect of the matters investigated.

One of the investigations opened in 2020/21 is still ongoing.

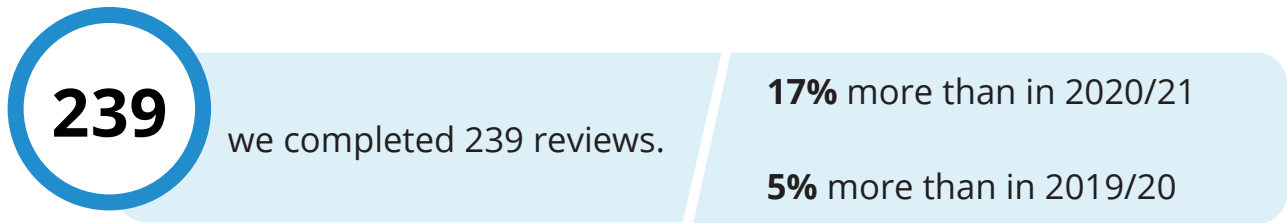
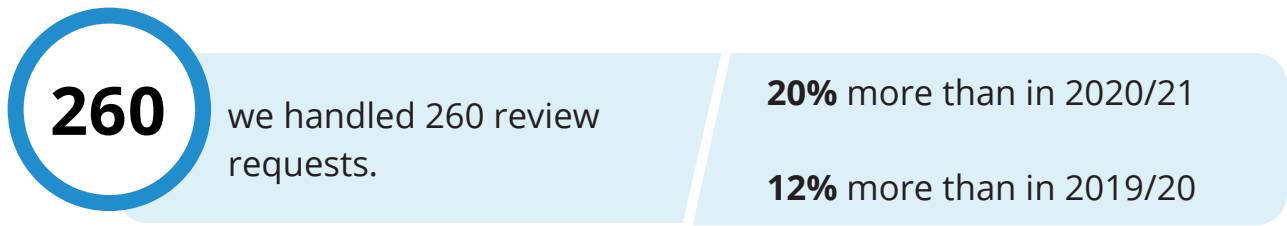


A close-up photograph of a woman with short, curly, light-colored hair. She is smiling warmly and looking down at a smartphone she is holding in her hands. She is wearing a white long-sleeved shirt with thin blue horizontal stripes. The background is softly blurred, showing what appears to be a window with light-colored curtains. In the top left corner, there are several thin, curved blue lines that look like decorative graphic elements.

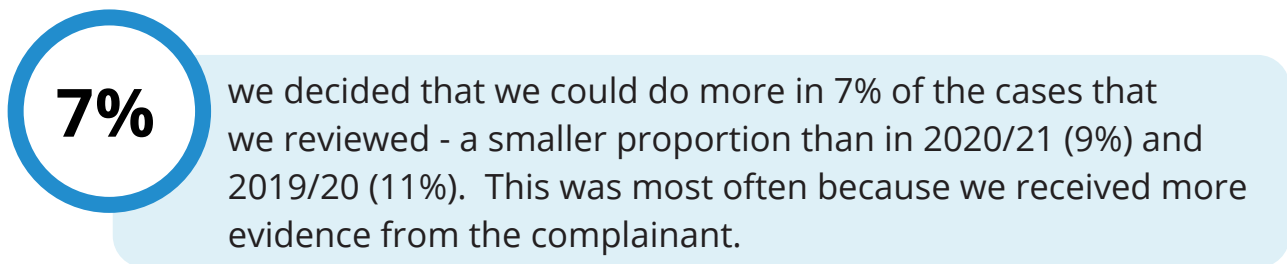
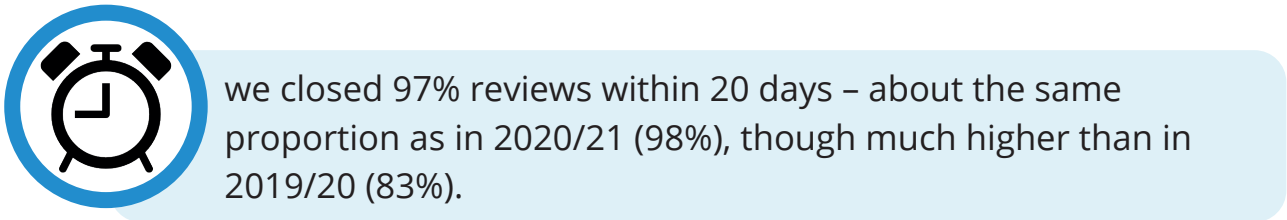
**“ What you and your team do is so important. It brings answers to families in dire need and helps so much when we are literally alone in the dark.**

## Review and Quality Assurance

We do our best to make sure that we handle complaints fairly and in a transparent way. We received many more complaints this year and unsurprisingly we also received many more requests for reviews of our decisions. We managed to complete these reviews promptly and we upheld a smaller proportion than last year. This gives us confidence in our decisions. In 2021/22:



We did not complete 21 reviews this year and will undertake them in 2022/23.





## Review requests

We understand that people may be unhappy with our decisions. People who are unhappy can ask for a review if they can show we did not properly consider the information they sent us, or if they can send us additional, new evidence. Those reviews are done by a member of staff who was not previously involved on a case.

This year we received more new review requests than ever before and we also managed to close more reviews than in 2020/21.

We upheld only 7% of the review requests – less than last year (9%). Although there is always more work for us to do to improve, this gives us confidence in our decisions.

## Quality assurance

In addition to reviewing some cases, we also aim to regularly check the quality of our casework to ensure that it meets our service standards.

Last year we introduced a new Quality Assurance (QA) process. We aimed to look regularly at a selection of our cases at enquiry, assessment and investigation stage, to check the quality of our work. We undertook several QA reviews during the year, but the high workload meant that we were not able to do as many as we wished. We have now appointed a new Service Quality Officer to take on this important work in 2022/23.

## Learning lessons

If we see from reviews and quality assurance that we can improve how we work, we let our staff know. For example, we may think that we need more training to deal with some complaints, or that we need to change our policies or processes.

We talk about learning points in our team meetings. We also have a space to share these lessons on our Intranet.

For example, as a result of one complaint we have amended our public body complaints process so that our staff now telephone complainants before sending out our draft investigation reports. This gives an opportunity for us to explain our investigations and alerts complainants that our reports are on their way.

After this section, we compare our performance this year to 2020/21 only



See section [The impact of COVID-19](#) for more details.

## How quickly we considered complaints

Despite our workload this year, we met or almost met many of our decision times targets for public body and Code of Conduct complaints. However, we did not always start investigations into complaints about public services, or close cases about the Code of Conduct, as quickly as we aimed to.

We know that people expect us to consider their complaints quickly. However, we also need to investigate thoroughly and consider the views and comments of complainants and public bodies. In some cases, we also need to ask for professional advice.

We show below how quickly we aim to make our decisions in complaints about public services and how we performed this year:

|  | <b>In 2021/22,<br/>we aimed to<br/>do that in ...</b> | <b>We succeeded<br/>in...</b> |
|--|---|-------------------------------|
| <b>Complaints about public services</b>  |   |                               |
| decide if a complaint is not in our jurisdiction within 3 weeks  | 90% of cases  | 90% of cases                  |
| decide if we should not investigate a complaint within 6 weeks where we seek early resolution, decide within 9 weeks | 90% of cases  | 83% of cases                  |
| decide to investigate and start our investigation within 6 weeks of the date we receive sufficient information       | 90% of cases  | 88% of cases                  |
| close cases that we investigated within 12 months  | 80% of cases  | 69% of cases                  |
| <b>Complaints about the Code of Conduct</b>  |   |                               |
| close cases that we investigated within 12 months  | 85% of cases  | 76% of cases                  |
| decide if we should not investigate a complaint within 6 weeks   | 90% of cases  | 98% of cases                  |
| decide to investigate and start our investigation within 6 weeks of the date we receive sufficient information       | 90% of cases  | 80% of cases                  |
| close cases that we investigated within 12 months  | 90% of cases  | 67% of cases                  |





2021/22 was a challenging year for us. We received more complaints than ever in the history of our office.

Despite that, we closed a record number of complaints and we were able to meet, or almost meet, many of our targets for decision times:

- ☑ Although we did not complete our consideration of cases as quickly as in 2019/20 in all areas of our work, we were mostly able to decide quickly which cases not to investigate.
- ☑ We were also able to resolve cases promptly where we secured early resolution. That is a good thing: many people complaining to us want to see their case resolved quickly and early resolution can often achieve that more quickly than investigation.

However, in some respects we fell short of our targets:

- ☒ We were not always able to start investigations into complaints about public services as quickly as we aimed to.
- ☒ We took too long to investigate some Code of Conduct cases.

This was in part because of our workload – there were simply too many cases for us to consider speedily with the resources we have.

Our work was also affected by the response times of the bodies in our jurisdiction. As those bodies continued to deal with the effects of the pandemic, they were not always able to respond to us as quickly as we would have liked.

Similarly, in some cases there have been delays on the part of councillors in cooperating with our investigations.

## What people think about our service

We want to deliver an excellent service. To check how well we do that, we invite feedback from people who complain to us and from the bodies in our jurisdiction. We use that feedback to improve how we work.

This year, the bodies in our jurisdiction told us that they were broadly satisfied with our service. However, compared to 2020/21, our complainants were less happy with the service that they received from us. We are working on a detailed action plan to improve how we work based on this feedback. In 2021/22:

**43%**

43% of our complainants that we asked were happy with our customer service – compared to 51% in 2020/21.

**89%**

89% of the complainants who were happy with the outcome of their complaint were also happy with our service – compared to 99% in 2020/21.

**32**

we received 32 new complaints about us. This was 23% more than in 2021/22 (26).

**93%**

we responded to 93% of complaints about us in 20 days – compared to 100% in 2020/21.

**41%**

of the complaints about us that we closed, we upheld or partially upheld 41% - compared to 22% in 2020/21.

## Our complainants

### Telephone survey results

Every year, we organise a telephone survey of about 200 people who complained to us during the year. We ask another organisation to conduct this survey, to make sure that it is as impartial as possible.

As in previous years, people that we asked were much more likely to be happy with our service if they were also happy with the outcome of their complaint. For this reason, when we present the findings of this survey, we refer to the scores firstly of all who responded – and secondly of those happy with the outcome.

Most people that we asked this year thought we were easy to find. A smaller, but still significant proportion, felt that we clearly explained what we do and how we do it and that we were helpful.

“ I am very grateful for the time and patience and recourse to expertise and material that has been expended on this case.

“ Very satisfied with everything from start to finish. Everything was explained to us. And phone calls were made to keep us updated.

80%

95%

80% of all respondents and 95% of those happy with the outcome said that we were easy to find.

60%

86%

60% of all respondents and 86% of those happy with the outcome indicated that we offered a helpful service.

65%

91%

65% of all respondents and 91% of those happy with the outcome suggested that we clearly explained our process and decision.

43%

89%

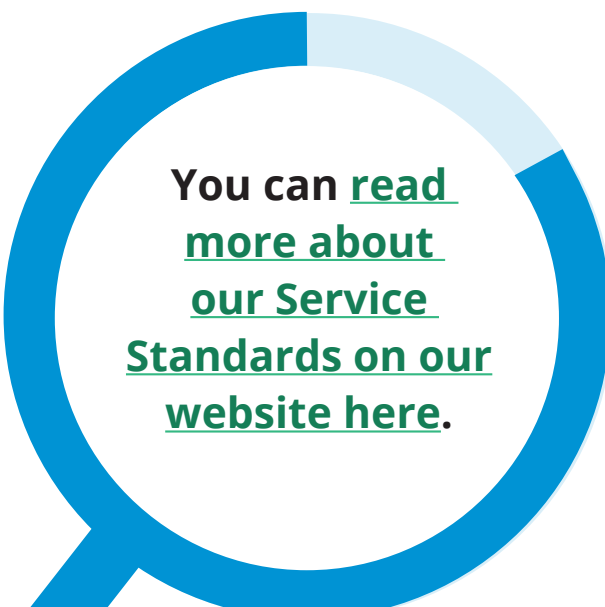
43% of all respondents and 89% of those happy with the outcome said they were happy with our customer service.

However, compared to 2020/21, fewer people were happy with how easy it was to find us and how helpful we were. Also, a lower proportion said they were happy with our customer service overall.

We use the survey findings to assess how we perform against our Service Standards:

1. We will ensure that our service is accessible to all.
2. We will communicate effectively with you.
3. We will ensure that you receive a professional service from us.
4. We will be fair in our dealings with you.
5. We will operate in a transparent way.

Overall, compared to 2020/21, people were generally less happy with how we met our Service Standards. Our challenge for 2022/23 is to improve our service whilst facing increased workload and static resources.



**You can read more about our Service Standards on our website here.**

## Complaints about us

People who are unhappy with our service can complain to us. We value those complaints, as they help us to find out what we need to do better.

This year, we received 32 new complaints about us - 23% more than last year.

We upheld or partially upheld 41% of the complaints about us that we concluded - compared to 22% last year. Several complaints related to emails we sent but that were not received by complainants. To address this issue, we have moved to a new secure email system.

Other complaints related to delays and timeliness. This reflected our workload pressures and a mismatch between demand and our resources. These issues are harder to address but we are working to simplify our processes and become more efficient despite the increasing workload.

To ensure that we are open and accountable, if people are unhappy with how we handled their complaint about us, they can ask for that complaint to be considered by an external independent review service.

During 2021/22, 6 people referred their complaints to our external review service. Two were upheld in part. In one case, we did not include a complainant's reference number in our correspondence. In the other, the reviewer found that we had not responded sufficiently clearly to a councillor alleged to have breached the Code of Conduct.



## Lessons

Overall, the results indicate that service users are less happy with our service. The feedback that we received this year suggests that there are some important issues that we need to address:

- what we communicate – we need to be more transparent and consistent in communicating our powers, process and criteria. This should help us to manage complainant expectations and improve trust in our process.
- how we communicate – we need to maintain more regular and personal contact with people who complain to us, including over the phone.
- how accessible we are – we need to make our processes clearer and more usable. We also need to make sure that we let people know how we can help them complain or understand our work.
- how we maintain a good service and make clear what level of service we can provide, when facing increasing workload and limited resources.

## Bodies in our jurisdiction

We also invite comments on our work from the bodies in our jurisdiction.

This year, we issued an online survey to 92 public bodies. We asked them for comments on their most recent complaint with us, as well as on our work in general. We received 31 complete responses. The results were broadly positive. The respondents rated their last interaction with us and gave an overall satisfaction score of 8.35/10.

Following that, we held three Sounding Board sessions in March 2022, with 26 public bodies taking part. The meetings were split into sectors – so all Local Authorities featured in one, Health Boards in another, with a third meeting for housing associations. The feedback was very positive, but we also received some suggestions for improvements. The bodies told us that we need to:

- be clearer about our deadlines
- use less formal language in written communication
- help them reconcile their complaint records with our own complaint numbers.

We will be working to implement these suggestions in 2022/23.

## 26 public bodies

### took part in our Sounding Boards this year

## How accessible we are

We work to make sure that people are aware of and trust our service - and that we are accessible to all who need us. We had some successes this year, but we will continue to work to improve how accessible we are. In 2021/22:

**43%**

43% of people who responded to a national survey knew about us.

**80%**

80% of our complainants that we asked said that it was easy to contact us.

**221**

we took 221 oral complaints – compared to 63 last year.

**Cymraeg**

we complied with all our Welsh Language Standards.

**14**

we organised a Sounding Board with advice and advocacy bodies to understand how accessible we were. 14 organisations attended that session.

## Awareness and trust

We regularly commission research to check how many people know about our office, understand what we can and cannot do and have trust in our work. This helps us to understand some barriers that may stop people from contacting us in the first place.

This year, 43% of people who responded to the national survey knew about us. This was less than the 48% in 2020, but still a high proportion.

What people thought about our office in general was also overall positive.

Although we would want everyone to know about us, these are quite good results.

However, we are concerned that some groups were much less aware of us this year than in 2020 – especially people from diverse ethnic backgrounds. People in this group were also much less likely than in 2020 to feel that they could approach us if they needed to.

We are speaking to organisations that work with people from diverse ethnic backgrounds to see what we can do to raise our profile within those communities.

Of people who responded to the national survey,



## Additional needs


Some people may find it more difficult to complain than others and there are many ways in which we can help.

80% of our complainants that we asked this year said that it was easy to contact us.

Our website has different options to make it easier to access, including by making the text larger, simplifying it, or reading it aloud. We publish information about our process in EasyRead format.

If asked, we can provide information in other formats, such as Braille. We can also organise translation and interpreting services and there is a link on our website to 'SignVideo' – an interpreting service for British Sign Language (BSL) users.

People can complain to us in different ways. Most people complain online, by email or by post. However, since 2019, we can also accept complaints that are not in writing. This year we took 221 oral complaints. This is a huge increase compared to 63 last year. We also took our first complaint in British Sign Language.

 Immensely helpful. I have dyslexia and wouldn't have been able to submit a complaint otherwise.

Our national survey showed this year that more people were aware that we can accept complaints other than in writing. 80% of people asked knew that we can accept a complaint over the phone and 54% knew that we can take a complaint in BSL.

We ask all people who complain to us to let us know if they need help and support and we consider and respond to all requests for adjustments. Of those who needed adjustments, 93% said that we did what they asked us to do.

EasyRead is an accessible format. It is used by people with learning disabilities and other people who have difficulty with reading. EasyRead is a way of translating difficult information and making it easy to understand.





## Welsh language

We fully embrace the Welsh language and we want to make sure that we treat it no less favourably than English in all aspects of our work and that we meet the needs of Welsh speakers. People who complain to us can deal with us in Welsh if they wish. We have now completed the work to meet all our Welsh Language Standards. You can read our [Welsh Language Policy on our website](#).

## Outreach

During the year, we met with many advice and advocacy groups to talk about work and learn what we can do better. These included Ethnic Minorities & Youth Support Team Wales (EYST), Learning Disability Wales, Autistic UK, the Chinese in Wales Association, the Wales Refugee Council, Carers Wales and many others.

In March, we organised a Sounding Board session which was attended by 14 advice and advocacy organisations. We also organised a small follow-up session with some members of Disability Wales.

## Lessons

Through our research and talking to organisations, we gathered many constructive and detailed comments on what we can do to be easier to access. We need to:

- make sure that our processes are clearer and more usable
- ensure that we make people more aware of different ways in which we can help them access our service
- talk about our work and values in a simple and more approachable way.

We are working on a detailed action plan to adjust how we work based on this feedback.

## Strategic Aim 2: Promote Learning

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Despite the significant increase in our workload this year, we continued to promote learning from our complaints and improve broader public services.



# Promote Learning: our work at a glance



We issued our Model Complaints Handling Policy and accompanying guidance to an initial 8 Housing Associations – bringing the total of bodies under Complaints Standards to 39.



We provided 140 virtual training sessions to public bodies across Wales



We launched the findings of our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'.



We published on our website statistics about complaints made to County and County Borough Councils for the first time.

We publish detailed information on our complaints standards work and own initiative investigations in our Report on Proactive Powers.



We issued 7 public interest reports.



We responded to 16 public consultations.



We launched the 'Our Findings' tool on our website, which replaces our traditional casebooks.



We published our third Equality and Human Rights Casebook.



We issued updated guidance – 'Principles of Good Administration' and 'Good Records Management Matters'.

We worked with the bodies in our jurisdiction, especially Health Boards, to help them improve their services and their complaint handling.

# Complaints Standards

The PSOW Act 2019 gave us new powers to proactively improve how public bodies handle complaints. In 2021/22, we further developed how we use those powers. In 2021/22:



We issued our Model Complaints Handling Policy and accompanying guidance to an initial 8 Housing Associations – bringing the total of bodies under Complaints Standards to 39.



We provided 140 virtual training sessions to public bodies across Wales



We published on our website statistics about complaints made to County and County Borough Councils for the first time.

## Model Policies

Following our work on Complaints Standards in 2020/21, we have increased the number of public bodies who now comply with our model policy.

In April 2021, 22 County and County Borough Councils become subject to complaint handling standards, followed by all the Welsh Health Boards and Trusts in June 2021.

Housing Associations are the next largest group of bodies that people complain to us about. This year, we focused our attention on that sector.

In October 2021, we issued our model complaints policy to Housing Associations. An initial 8 Housing Associations will need to comply with that policy from April 2022. This means there are now 39 public bodies following a single model complaints policy.

You can find [our model complaint policy on our website here.](#)





## Training

In the last year, we delivered even more training sessions that we did in 2020/21 – 140 in total, with around 3,000 people attending. We delivered all our sessions remotely over Microsoft Teams and we provided them to public bodies free of charge.

The feedback we receive from the attendees continues to be consistently excellent. We are very proud of how we have been able to support public bodies at a particularly challenging time for them but also for our own office.

## Statistics

In 2021/22, for the first time, we published on our website information on complaints received by County and County Borough Councils. This information has not been available in one place before and we are pleased to be able to provide this for service users. This publication received media attention and [can be found on our website here](#).

More detailed information on our work as the Complaints Standards Authority for Wales can be found in our Report on Proactive Powers.

## Own Initiative investigations

We can undertake two different types of 'own initiative' investigations:

- extended investigation – when we are already investigating a problem and we extend the investigation to other issues or complainants
- wider investigation – when we conduct a stand-alone investigation which does not relate to a complaint made by an individual.

In 2021/22:

3

We completed 3 extended investigations.



We launched the findings of our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'.

### Our extended investigations

During 2021/22, we completed three extended investigations. We issued the findings of one of those investigations as a public interest report, and we include a summary of that report in [the Sharing our findings section](#).

You can find the summaries of the other two investigations in our Proactive Powers report.

Two further extended investigations are ongoing.

### Homelessness Reviewed – our first wider own initiative investigation

In October 2021, we published the report on our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'. The investigation considered how local authorities conducted homelessness assessments and looked at the work of three County Councils – Cardiff, Wrexham, and Carmarthenshire.

In our report, we praised the work done by these Councils during the COVID pandemic and we acknowledged elements of good practice. However, we identified several

serious failings. This led us to make recommendations for improvements by the three Councils that we investigated. We invited the other 19 County Councils in Wales to make similar improvements:

- providing human rights and equality training to officers
- reviewing communication methods
- revising template letters.

We also invited the Welsh Government to consider introducing a housing regulator to help standardise practices in relation to homelessness assessments across Wales.

We presented the findings at an event with the Chartered Institute of Housing, discussed the report with Welsh Government and Audit Wales and the report was debated by the Local Government and Housing Committee at the Senedd. We were very pleased with how the final report was received and expect that it will lead to positive change.

**We discuss our own initiative investigations work in more detail in our Report on Proactive Powers.**

## Policy work

If we have relevant insights to share about our work, we contribute them to public inquiries and consultations. In 2021/22:

16

we responded to 16 public consultations.

We use our expertise and the evidence from our casework to contribute to the development of public policy in areas such as health, social care and local government.

Many responses that we submitted this year related to the changes under the Local Government and Elections (Wales) Act 2021.

The Act set up Corporate Joint Committees (CJCs), the new statutory mechanism for regional collaboration, covering four areas in Wales. The Welsh Government has consulted during the year on regulations and statutory guidance which defines how these bodies should work in practice. When responding, we pointed out that people will be able to complain to us about members of CJCs breaching the Code of Conduct. However, the Welsh Government had not appeared to have assessed at the time how much it would cost us to process those complaints.

In another example, we shared our concerns about waiting times for treatment in the health service. We do not usually investigate complaints about waiting times, unless the delay caused unnecessary pain and suffering. However, with over 22% of the Welsh population on waiting lists, we are very concerned that we will soon start to receive many complaints like that. We spoke about our concerns in a consultation response to the Senedd's Health and Social Care Committee, but also in interviews on ITV and the BBC and in press articles.

## Sharing our findings

We believe that it is very important that we share findings from our casework as widely as possible to help improve public services. This year, we issued even more public interest reports, launched new guidance and a new tool to help people search for our findings. In 2021/22:



we issued 7 public interest reports.



we launched the 'Our Findings' tool on our website, which replaces our traditional casebooks.



we published our third Equality and Human Rights Casebook.



we issued updated guidance – 'Principles of Good Administration' and 'Good Records Management Matters'.



we worked with the bodies in our jurisdiction, especially Health Boards, to help them improve.



## Public interest reports

When we investigate a complaint and we think that something has gone wrong, we usually prepare a report which explains our findings. Sometimes, we decide to issue a 'public interest' report. We do this for example when:

- there are wider lessons from our investigation for other bodies
- what went wrong was very significant
- the problem that we found may be affecting many people, not just the person who complained to us, or
- we had pointed out the problem to the body in the past, but the body did not address it.

When we issue a public interest report, we draw attention to it in the media. The body also must publish an announcement in the press about the report.

This year, we issued 7 public interest reports – one more than in 2020/21 and 3 more than in 2019/20.

Five of these reports were about health care. Our other two public interest reports were about social care and waste management.

## Our reference: 202001285



Mr X complained to us about the diagnosis and treatment of his wife, Mrs X, by Cwm Taf Morgannwg University Health Board. He complained that Mrs X (who had been diagnosed with cancer 3 months earlier) did not receive a diagnosis and treatment quickly enough when she was admitted to the Emergency Department (ED) with a possible infection. Mrs X sadly died when in hospital.

We agreed that it took too long to diagnose Mrs X's condition and give her the correct treatment. We believed that Mrs X could have survived if she had the correct treatment sooner. We also found that the way Mrs X was cared for compromised her dignity and that she was denied the opportunity of spending the little time she had left with her family.

We recommended that the Health Board should:

- apologise to Mr X for service failure and distress caused to the family and
- arrange relevant training to all ED staff
- carry out an audit of a sample of patient ED records to ensure that similar cases were assessed and escalated appropriately
- create a standard procedure for management of patients whose clinical condition suggests special arrangements need to be made by the receiving hospital.

We issued our findings as a public interest report because this case was very serious and because it was possible that Mrs X's death was avoidable.

[Read about this report on our website here.](#)



## Our reference: 202000661 and 202001667



Mr D complained to us that his late mother, Mrs M, did not receive the correct diagnosis and treatment for her symptoms of abdominal pain and weight loss by Betsi Cadwaladr University Health Board. He also complained about the discharge arrangements with Denbighshire County Council.

We found that clinicians did not diagnose Mrs M's condition correctly, explaining her weight loss and aversion to eating to as a "food phobia". We also agreed that Mrs M should not have been discharged when she was and that the Health Board and the Council did not plan and organise her discharge as they should have.

We recommended that each body should apologise to Mr D for the failings identified in our report and:

- share our report with their respective Equalities Officers to facilitate training on the principles of human rights in the delivery of care
- make a redress payment to the family of £250 in recognition of failings in complaint handling.

We also recommended that the Health Board should make a redress payment of £5,000 to the family in recognition of the distress that the findings of our report would have caused.

We issued our findings in this case as a public interest report because this was a serious case of wrong diagnosis. We could not be certain that this wrong diagnosis led to Mrs M's death. However, we decided that this uncertainty was a serious injustice to Mrs M and her family.

[Read about this report on our website here.](#)





## Our reference: 202002273



Mr Y complained to us about treatment arrangements by Betsi Cadwaladr University Health Board. He complained that he had to wait too long for urgent treatment for his prostate cancer in 2019. When he was put on the waiting list for treatment, he joined 16 other patients awaiting the same procedure.

We used our proactive powers to investigate if the Health Board took too long to provide the treatment to these patients (we considered and upheld Mr Y's concerns in a separate public interest report).

We found that 8 of the patients were referred for treatment in England. For those patients, the Health Board did not produce a report to the Welsh Government about exceeding the waiting times target, nor did it carry out harm reviews. Although this was in line with the Welsh policy at that time, we decided that the Health Board still should have monitored what care these patients received and should have considered the impact of the delay in their treatment. We recommended that the Health Board should:

- return the affected patients to the position they would have been in had they been treated in Wales
- carry out a harm review for each patient and review its harm review process.

We issued our findings as a public interest report because we were concerned that there may be systemic problems in how the Health Board delivered prostate cancer treatment. We had also conducted previous investigations into the Health Board's urology services and we were concerned that issues we had raised previously had not been addressed.

[Read about this report on our website here.](#)



## Our reference: 202002558



Ms B complained to us about the care provided by Hywel Dda University Health Board. Ms B complained that the Health Board did not provide her son, Mr C, with the right learning disability psychology services after a specialist support service for young people was closed.

We found that the Health Board did not arrange suitable services for Mr C. Although the Health Board was aware that Mr C was not receiving appropriate services, it did not plan how to meet his needs and this left Ms B without enough support to manage Mr C's behaviour.

We recommended that the Health Board should apologise to Ms B for the clinical, communication and complaint handling failings that we identified and:

- remind the relevant staff of the importance of good complaint handling practice
- review whether any other patients did not get the service they needed because of the closure of its specialist support service - and ensure that it works to meet those needs
- commission and complete its planned review of the Health Board's child psychology services and reports the findings back to us.

We issued a public interest report in this case because the Health Board closed the support service but did not replace it. This had led to significant injustice to Ms B and Mr C. We were also concerned that this issue may have impacted upon other vulnerable patients.

[Read about this report on our website here.](#)



## Our reference: 202003539



Mr S complained to us about care and treatment provided by Cardiff and Vale University Health Board. Mr S complained that clinicians did not correctly diagnose his diseased colon. He also complained that, because he was not treated quickly enough, he suffered complications after emergency surgery to remove the right side of the colon. Mr S had Asperger's Syndrome and he also complained that clinicians did not clearly explain his treatment options.

We found that Mr S's condition was not diagnosed correctly and did not require extensive surgery. We also found that Mr S did not receive clear information about his condition and treatment.

We recommended that the Health Board should apologise to Mr S and:

- make him a redress payment of £10,000, in recognition of injustice that he suffered
- share our report with the Clinical Director and Director of Nursing responsible for the staff involved in Mr S's care
- make sure the staff undergo relevant training.

We issued a public interest report in this case because, due to the wrong diagnosis, Mr S needlessly went through extensive and risky surgery and a long, difficult recovery.

[Read about this report on our website here.](#)



## Our reference: 201906202



Ms F complained to us about social care arrangements by Bridgend County Borough Council. Ms F complained that the Council did not properly manage her status as a Foster Carer for a young person, Ms G, and that the Council did not give Ms G enough support and assistance after she left its care (Pathway planning). Ms F was also unhappy with how the Council handled her complaint about these problems.

We upheld these complaints.

We recommended that the Council should apologise to the complainants and:

- pay Ms F and Ms G £8,500 each in recognition of the impact that its failings had had on them
- review and revise its Pathway planning documentation
- provide Pathway planning training for relevant staff
- review its approach to aspects of its complaint handling process.

We issued our findings as a public interest report because we were concerned that there may be systemic problems with how the Council planned care for 'looked after young people'. We also decided that the injustice suffered by Ms G and Ms F was significant and that it had implications for other looked after young people in the Council's area.

[Read about this report on our website here.](#)



## Our reference: 202005937 / 202100061 / 202100409



Several vulnerable residents complained to us about waste management services operated by Cardiff Council. The residents complained that the Council's "Assisted Lift" waste collection service did not meet their needs and that the Council did not respond appropriately to their numerous complaints about the service.

We found that the service that the Council provided was not reliable, leading to stress and safety hazards for the residents. We also found that the Council did not respond as it should have to the residents' concerns, despite receiving repeated formal complaints and hundreds of calls about problems with the service.

We recommended that the Council should:

- apologise to the complainants
- resolve any ongoing concerns
- review and improve how it handles its complaints about the Assisted Lift service
- review the service and produce a plan for improvements.

We issued a public interest report in this case because we had considered complaints about this Council's waste management services in the past and we were concerned that it had not addressed the issues that we had previously raised.

[Read about this report on our website here.](#)







## Our Findings

In August 2021, we launched on our website a search tool called **'Our Findings'**, to replace our casebooks. We add new summaries every month to make sure that the record is as up to date as possible.

'Our Findings' includes the summaries of all the reports that we issue on complaints about public services. It also includes the summaries of cases about public services where we agreed early resolutions and voluntary settlements.

'Our Findings' also includes summaries of some of our complaints about the Code of Conduct. We only publish summaries of the complaints that we investigate.

'Our Findings' includes all relevant case summaries from April 2021 onwards. You can still find summaries of our complaints before April 2021 in our traditional casebooks on our website.



## Equality and Human Rights Casebook

This year we also published our third Equality and Human Rights Casebook.

We do not make definitive findings about whether a public body has breached an individual's human rights. However, if we find that something has gone wrong with public services, we consider whether a person's human rights may have been engaged. If we think it is relevant, we

comment on how the body providing the service considered those rights.

Our Equality and Human Rights Casebook assembles a selection of cases where human rights or equality issues have either been raised as part of the complaint or have been central to our findings.

[You can read the Casebook here.](#)



## Annual letters

Every year, we send letters to Health Boards and Local Authorities about the complaints we received and considered about them during the year. We do this to help these bodies improve their complaint handling and the services that they provide. [We publish all annual letters on our website here.](#)



## Guidance

In 2016, we issued the 'Principles of Good Administration and Good Records Management' to public bodies in Wales.

In 2021, we decided to review the 'Principles' and split them into two separate publications. We considered that this would provide public bodies and complainants with both clear general principles of good administrative practice and separate specific advice on good administrative practice in relation to records management.

After we consulted on draft guidance, we issued the final publications in January 2022.

You can find our [\*\*revised Principles of Good Administration and Principles of Good Records Management on our website here.\*\*](#)



## Engagement

It is important that we directly engage with the bodies in our jurisdiction and other stakeholders operating in the sectors which account for most of our complaints.

As part of this work, during 2021/22, we:

- attended meetings of the Listening and Learning from Feedback group (LLFG) and Heads of Patient Experience (HOPE) network working with NHS bodies to make the most from their complaints
- attended two Healthcare Inspectorate Wales summits, which included all the healthcare regulators in Wales as well as Audit Wales, Community Health Councils and other bodies
- attended the NHS Confederation conference
- met with Health Board Chief Executives
- met the Local Authority contact officer group and held numerous meetings with those officers to discuss good practice

- presented to a Tai Pawb event on making complaints processes inclusive
- spoke at TPAS Cymru's webinars to promote the work we're doing with Housing Associations.

We also aim to share relevant information and insights with other key stakeholders responsible for the scrutiny of the health sector such as Healthcare Inspectorate Wales, Care and Social Services Inspectorate Wales, General Medical Council, Community Health Councils and Audit Wales, as well as the Welsh Commissioners.

## Strategic Aim 3: Use Resources Wisely

We value and support our staff and are committed to creating an equal, diverse, and inclusive workplace. We want to ensure good governance which supports and challenges us and we benchmark our work against best practice in the UK and internationally. We also secure value for money and make sure that our services are fit for the future.






# Use Resources Wisely: our work at a glance

**72%** 72% of our staff completed 28 hours or more of continuing professional development.


**2.7%** The average percentage of working days lost through staff sickness increased from 1.1% to 2.7%. This was largely because of long-term absences due to stress, mostly not work-related.


 We continued to offer Mental Health First Aider support to staff. The Wellbeing Working Group introduced a range of new staff benefits and continued to focus on ways to support staff wellbeing.


**84%** 84% of our staff responded this year to our staff survey.

 86% of those who responded agreed that we are committed to creating a diverse, equal and inclusive workplace.

 We again achieved the Chwarae Teg FairPlay Employer award at silver level.

 We achieved Autism Awareness Employer Status.

 We used 2% more energy than last year, but 29% less than in 2019/20.

 we avoided 176 kg of CO2 in emissions

We sent 0% of our general waste to landfill.

 We maintained close links with colleagues in the UK, Europe and around the world.

## Training and development

We support our staff to develop the knowledge and skills that they need to offer an efficient and professional service. However, the workload this year has made it challenging for our staff to dedicate time to develop their professional knowledge and skills. In 2021/22:

**72%** 72% of our staff completed 28 hours or more of continuing professional development.

**100%** All our staff completed their annual appraisal process.

Our staff are our key resource. We want to make sure that all staff members have the skills, knowledge and attitudes to enable them to deliver an excellent service.

### Training

All new colleagues complete a comprehensive induction programme. In addition, every year we support our staff to access the training and development they need. We offer online training for key topics such as equality and in-house training and Good Practice Seminars which include specific public services and legislative change updates. We also provide skills training appropriate to staff roles.

We want all our staff to complete at least 28 hours of training and development each year (pro rata for staff who work part-time).

This year, 72% of staff achieved this (this figure excludes colleagues on maternity/adoption leave).

During the year, we held staff focus groups (facilitated externally by Chwarae Teg) to find out how we can improve training and development and ensure it is accessible to all. The feedback has been extremely valuable and has helped us to identify areas for improvement. This will include clarifying and communicating individual and organisation responsibilities for training and development.

**64% of our staff who responded to our survey this year agreed that the training and development they received is appropriate and relevant to their job.**

We will continue to encourage staff on their development journey in 2022/23.

## Appraisal process

Through our appraisal process, we make sure that each member of staff sets clear objectives and priorities for the year ahead and that we review their progress regularly. New colleagues follow a separate process – we set them more immediate objectives and priorities. For staff returning from maternity/adoption leave or long-term sickness, we agree their objectives when they return.

This year, all our staff completed the appraisal process.

**88% of our staff who responded to our survey agreed that they receive regular and constructive feedback on their performance.**

During the year, we set up a Leadership Development Network for all Leaders with responsibility for line management within our organisation. This Network meets every quarter and provides skills development to build a coaching culture and style of leadership.



## Health and wellbeing

We want our staff to be healthy and well. The very high caseload this year has put our staff under immense pressure. However, we have continuously looked for ways to support their health and wellbeing. In 2021/22:

**2.7%**

the average percentage of working days lost through staff sickness increased from 1.1% to 2.7%. This was mainly because of long-term absences due to stress, mostly not work-related.



we continued our focus on staff wellbeing and worked to support staff with flexible arrangements during another challenging year as we move to the “new normal”.



we continued to offer Mental Health First Aider support to staff. The Wellbeing Working Group introduced a range of new staff benefits and continued to focus on ways to support staff wellbeing.

**84%**

84% of our staff\* responded this year to our staff survey – compared to 92% in 2019/20 (the last year when we held that survey).

\* The total number of staff used to calculate this figure does not include colleagues on maternity/adoption leave

### Challenges

Between the increasing caseload and the ongoing pressures of the COVID-19 public health crisis, it has been a very difficult year for our staff.

After improvements last year, in 2021/22 we saw again more staff absences. The

average percentage of working days lost through staff sickness this year was 2.7%, compared to 1.1% last year. This means that an average of 7.2 days per employee were lost because of sickness, compared to 3 days in 2020/21.

This increase has resulted in part from COVID-19 and in part from longer

term absences of several members of staff. 9% of working days were lost as the result of COVID-19 or 'Long COVID' (compared to 37% last year). 59% were lost because of stress (compared to 4% last year), though much of this was not work-related. 15% of days lost were lost as a result of work-related stress, including pressure from high caseloads and challenging complainants.

## Supporting staff wellbeing

We worked hard to support our staff during this difficult year. We continued to offer staff some wellbeing activities (such as yoga) virtually. We also continued to encourage virtual lunch-time walks, as well as coffee mornings and 'meet ups' online.

We maintained our Mental Health First Aider support to staff and our Wellbeing Working Group continued to focus on ways to support staff wellbeing and introduced a range of new staff benefits. These included a new cycle to work scheme, gym membership scheme and health cash plan.

To support our staff to deal with potential stress and anxiety, we introduced a new internal process. We now use a stress risk assessment to help staff identify emerging issues. We adopted the Health and Safety Executive (HSE) Management Standards to help us prevent work-related stress. All Leaders, as part of the Development Network Programme, have now received training on the HSE management standards. They are continually developing the leadership skills that are known to help staff maintain wellbeing at work.

## Staff survey

One of the key ways in which we measure the wellbeing of our staff is through our staff survey, which we hold every two years.

This year, 84% of our staff responded to this survey, compared to 92% in 2019/20. Its results show the impact on staff of sustained workload pressures.

In the year ahead, we will be working with managers across the organisation to support staff. We will also continue to seek efficiencies to mitigate staff concerns about resources and workload.

**87%**

said that PSOW is a good place to work, down from 96% in 2020.

**93%**

said that their working arrangements were sufficiently flexible to allow them to balance their work and home life priorities, up from 87% in 2020.

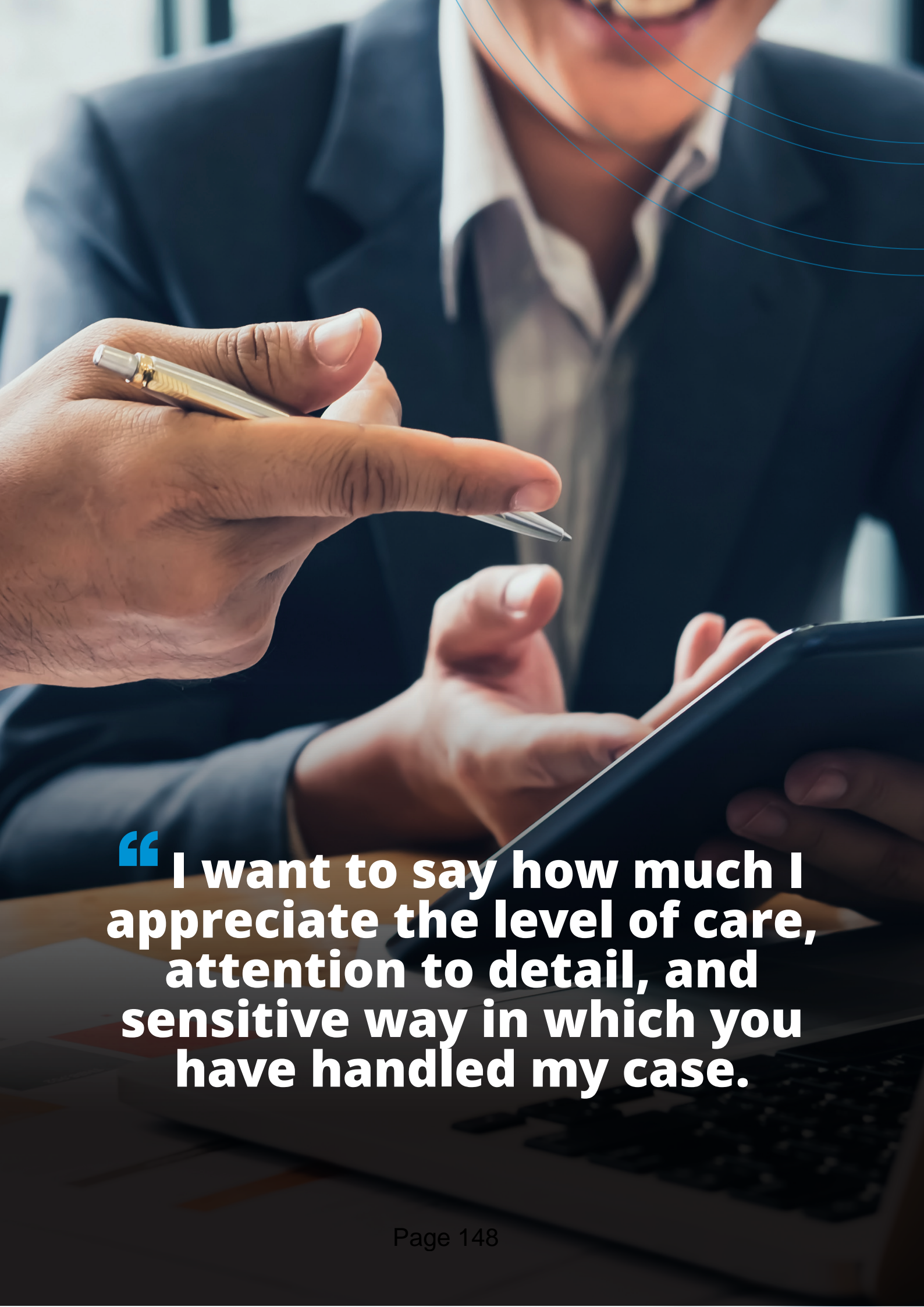
**61%**

said that they had sufficient resources to do their work, down from 90% in 2020.

**58%**

felt that workload pressure was reasonable, down from 76% in 2020.

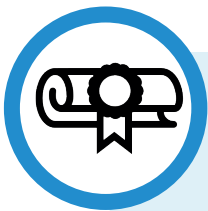




**“ I want to say how much I appreciate the level of care, attention to detail, and sensitive way in which you have handled my case.**

## Equality, diversity and inclusion

As an employer, we work hard to promote equality and diversity and tackle any barriers to inclusion. In 2021/22:



we reviewed and updated our Race and Ethnicity at Work Charter.



86% of our staff who responded to the staff survey this year agreed that we are committed to creating a diverse, equal and inclusive workplace.



Ymwbyddiaeth am Awtistiaeth  
Autism Aware

we achieved Autism Awareness Employer Status.



we continued to be a Disability Confident Committed employer.



we again achieved the Chwarae Teg FairPlay Employer award at silver level.



we reduced our median Gender Pay Gap to 3%, from 5% last year.



we removed core working hours from our flexible working procedure to help our staff work as flexibly as possible. We also moved to a new model of “hybrid” working.

Equality, diversity and inclusion is important to us – as a service provider and as an employer.

We have a [Strategic Equality Plan which you can read here](#). We are also committed to strengthening our contribution to race equality, justice and inclusion in Wales and have in place a Race and Ethnicity at Work Charter. [You can read the Charter here](#). During the year, we reviewed the Charter and developed a detailed plan of actions.

We have a staff Equality Group that is responsible for developing and monitoring the equality actions we set ourselves each year. We report on all our equality, diversity and inclusion work every year in [our Equality Report which you can read here](#).

**86% of our staff who responded to the staff survey this year agreed that we are committed to creating a diverse, equal and inclusive workplace.**

## Diversity of our workforce

Every year, we examine how diverse our staff and job applicants are and how well they reflect the population of Wales.

Positively, the proportion of people in our workforce who identified with diverse ethnic backgrounds has increased slightly to 8% and is now higher than the Welsh average. However, there were fewer people among our job candidates this year who identified like this (6% of all people who applied to work with us).

Under our Race and Equality at Work Charter, we aim to increase the proportion of applicants, and those shortlisted for interview, who are from diverse ethnic backgrounds. This year, 7% of our shortlisted candidates who responded to our equality monitoring were from those backgrounds.

Some groups are still not well represented among our staff. Very few members of staff are under 25, identify as disabled, come from diverse national backgrounds, or identify as LGBT+. These groups were slightly better represented among the people who applied this year to work for us.

We will work hard to address these trends under our new Equality Plan which we will publish in 2022.





## Awareness of autism and neurodiverse conditions

With a rise in the number of autistic people that use our service, we want to be more aware and accepting of all neurodiverse conditions.

This year, we achieved Autism Awareness Employer Status. 93% of our staff this year completed Autism Awareness training.

We have designated a member of staff as an Autism Champion, who is gaining knowledge from various training courses and meetings with autism organisations to help us better understand and meet the needs of people on the neurodivergent spectrum.



## Inclusion of disabled people

We are a Disability Confident Committed employer. We take part in this scheme to help us include more

disabled people within our workforce and amongst our job applicants.

In the year ahead, we are looking to designate a member of our staff as a Diversity Champion for issues such as disability.

## Gender equality

We are aware that, in a relatively small organisation, individual recruitment outcomes can make apparently large differences. Women among our job applicants consistently outnumber men by a significant margin. We encourage and facilitate development opportunities for female staff which aims to remove barriers to employment or career progression.

This year, we continued to work with Chwarae Teg under the FairPlay Employer scheme. The scheme benchmarks organisations in terms of gender equality across 4 levels: bronze, silver, gold and platinum.

We again achieved the Chwarae Teg FairPlay Employer award at silver level. The Chwarae Teg assessment identified some areas in which we need to do more work and we will do so during 2022/23.

Our work with Chwarae Teg, is showing positive dividends. Our median Gender Pay Gap decreased from 5% at March 2021 to 3% at March 2022. For comparison, **Chwarae Teg estimated that the median Gender Pay Gap in Wales in 2021 was 12.3%.**



|                   | 2021/22 | 2020/21 |
|-------------------|---------|---------|
| % of staff female | 76%     | 76%     |
| Median Pay Gap    | 3%      | 5%      |
| Mean Pay Gap      | 17%     | 17%     |



## Welsh Language skills of our staff

Under the Welsh Language Standards, every year we measure the Welsh language skills of our workforce.

In 2021/22, 14% of our staff said that Welsh was their main language (compared to 12% last year). However, the proportion of people with fairly good or fluent skills was higher:

- speaking: 27% (compared to 21% last year)
- reading: 30% (compared to 24% last year)
- writing: 27% (compared to 21% last year)
- understanding: 30% (compared to 25% last year)

We are happy with these results and will continue to support our staff to improve their Welsh language skills.

## Working flexibly

This year, we removed core working hours from our flexible working procedure. We did this as a response to the COVID-19 pandemic and to help our staff to achieve as much flexibility and work life balance as possible.

We are currently reviewing our working arrangements and our office accommodation requirements for the future.

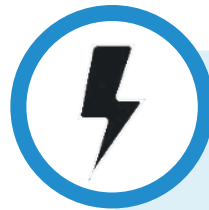


# Sustainability

We understand that we need to play our part in protecting the environment and continue to develop sustainable working practices. In 2021/22:



we produced just over 9000kg of waste - 255% more than last year, but 66% less than in 2019/20.



we used 2% more energy than last year, but 29% less than in 2019/20.



we sent 0% of our general waste to landfill.



we avoided 176 kg of CO2 in emissions

During the year, we still worked mostly from home. However, as we started moving to “hybrid” working, more staff members began to use the office more regularly.

This meant that we produced much more waste on site compared to last year – though still 66% less than in 2019/20. Most of the waste that we produced was confidential waste, as we put a lot of work into destroying old paper files. However, we were able to recycle 94% of waste, compared to 76% last year and we sent no general waste to landfill.

We also used slightly more electricity than last year, though still much less than in 2019/20.

Commuting mileage during the year was also very low and we avoided 176 kg of CO2 in emissions.

We are required by law to publish a reports on our sustainability under the Biodiversity and Resilience of Ecosystems Duty (section 6 duty). We publish in these reports detailed information on how we managed waste, used electricity and calculated commuting emissions. You can [read these reports on our website here.](#)

# Formal accountability

We are accountable to the Senedd for how we work and how we use our resources.

## The Senedd

Each year we make a formal submission to the Senedd's Finance Committee, seeking funding for the following year. We make that submission in line with a set of principles specified by the Committee. The Committee considers our submission and makes a recommendation to the Senedd on how much funding we are to receive. If the Committee makes comments or recommendations on our submission, we take them into account in following years.

In our Annual Report and Accounts, we explain how we used our resources to deliver our service during the year. This Report is laid before the Senedd and is published on our website. The Report is then scrutinised by the Finance Committee. We work to implement recommendations made by the Committee in our following funding submissions and our Annual Report and Accounts.

## Judicial review

The Ombudsman is a Corporation Sole. This means that the person appointed to the role is fully responsible for casework decisions. Complainants can request an internal review of a casework decision that they are unhappy with (we talk about this in more detail in the Review and Quality Assurance section of this Report). However, the appropriate route to challenge our decisions is through judicial review.

No cases were subject to judicial review proceedings in 2021/22.

One former councillor has applied to the High Court for permission to appeal a decision of the Adjudication Panel for Wales to disqualify them from being a member of a local authority in Wales for 12 months. The application has not yet been considered by the Court.

# Working with similar bodies

We work closely with other accountability bodies, and we exchange best practice with other ombudsman services in the UK and beyond. In 2021/22:



we maintained close links with colleagues in the UK, Europe and around the world.

## The Ombudsman community

We continued to be closely involved in the work of the Ombudsman Association (OA), Public Service Ombudsman Group and International Ombudsman Institute (IOI).

In 2021/22, we engaged with several OA networks, considering legal matters, human resources, first contact, casework, communications and policy.

We also attended a working seminar on the development of national Ombudsman institutions, organised by the Parliamentary and Health Services Ombudsman in Manchester, in November 2021.

## The Welsh Commissioners and the Auditor General

During the year, Nick Bennett met the Welsh Commissioners and the Auditor General twice to discuss issues of mutual interest.

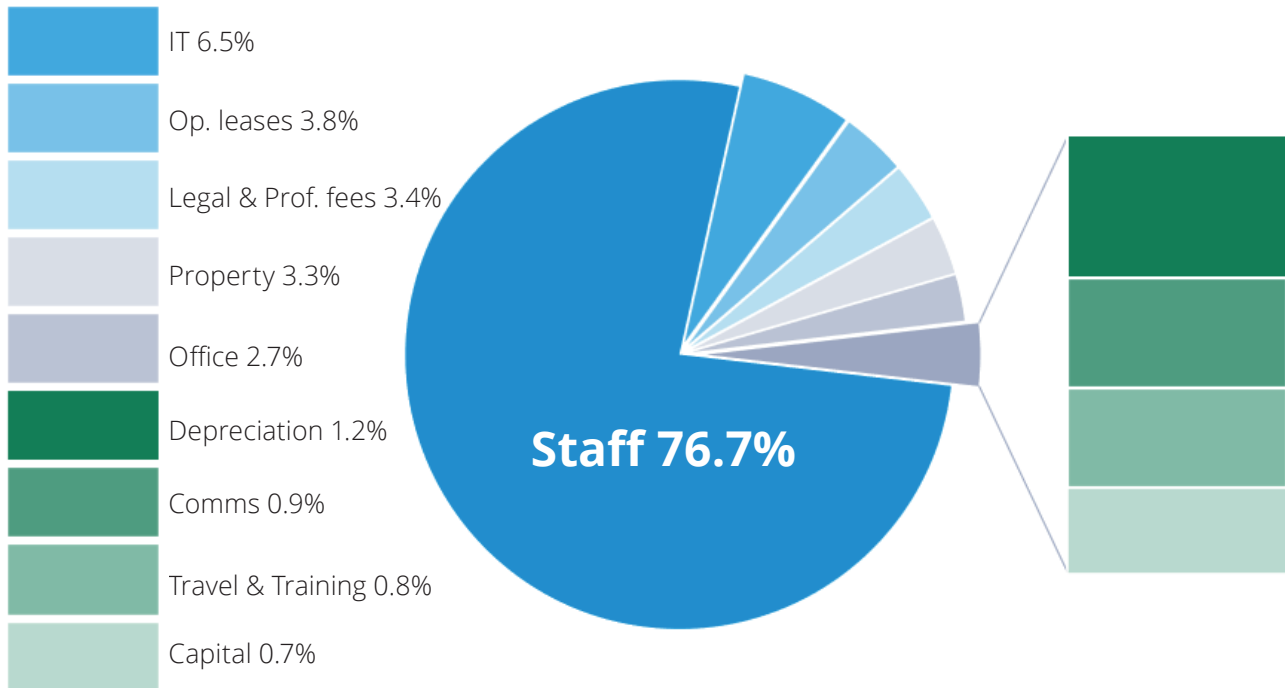
We also issued a joint statement with these bodies on the crisis in Ukraine. In that statement, we welcomed the commitment by the First Minister to make Wales a nation of sanctuary for refugees and asylum seekers.

# Financial Management

Overall resource has decreased compared to last year as a result of a reduction in our annual leave accrual. Cash expenditure has increased compared to the same period as we received a one-off £974,000 pension surplus repayment which reduced our net cash requirement in 2020/21.

| Resource Out-turn | 2021/22 | 2020/21 | Change |
|-------------------|---------|---------|--------|
|                   | £000s   | £000s   | £000s  |
| Total Resource    | 5,114   | 5,143   | -29    |
| Cash Requirement  | 5,126   | 4,096   | +1,030 |

## Gross Resource Expenditure 2021/22



## Analysis of Spending by Strategic Aims

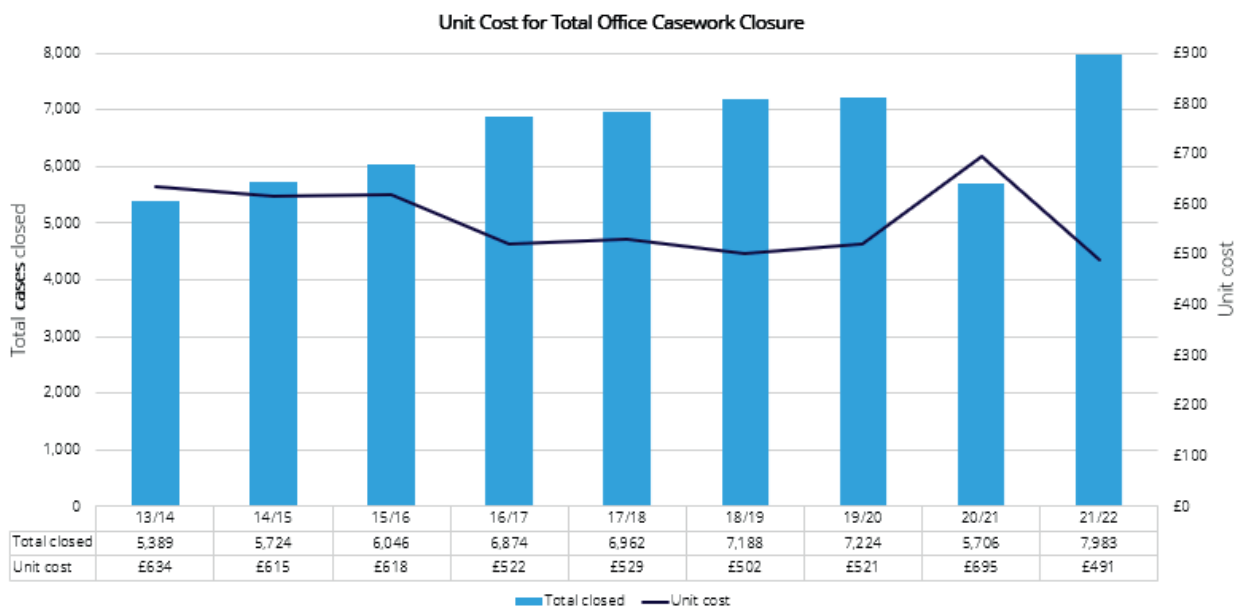


## Unit Costs

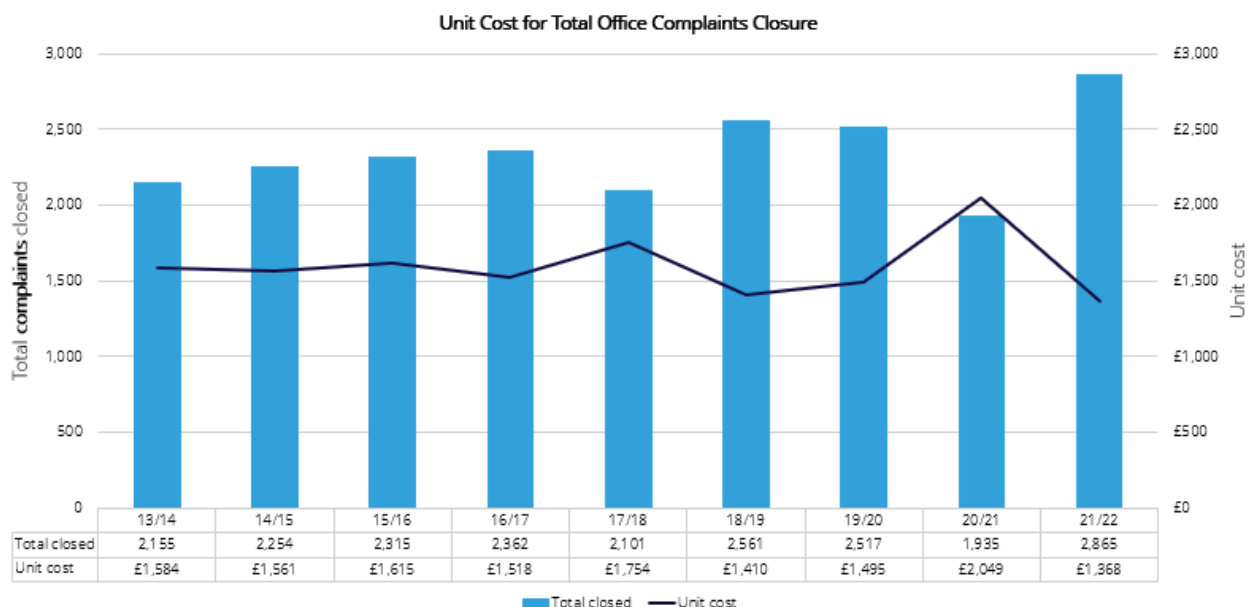
As outlined in last year's Annual Report & Accounts we will now present unit costs as calculated for our main activity – receiving, considering, investigating and responding to enquiries and complaints. This is our activity under Strategic Aim 1 and we will use the audited figures for Operating Costs by Strategic Aims, presented within these accounts.

The graphs below show firstly unit cost for all enquiry and complaints work closed in the year and secondly for complaints cases closed in the year.

### Unit Cost for Total Office Casework Closure



### Unit Cost for Total Office Complaints Closure



Note: These graphs are based on expenditure on this Strategic Objective and adjusted to 2021/22 prices. Figures reported here for previous years have been adjusted to reflect this approach.

The unit costs reflect changes to costs and to the number of complaints and enquiries completed during the year. The variation in unit costs reflects:

- In 2020/21, case closures were lower than in recent years, particularly in the first quarter due to the pandemic. In addition, there were delays, again particularly in the early months of the year, as public bodies were unable to respond to us normally in the early stages of the pandemic.
- In 2021/22, case closures were the highest ever since the creation of the Ombudsman’s office, whilst our unit costs were significantly lower when adjusted for CPI inflation as at March 2022.

## Expenditure on activities under PSOW Act 2019

In 2021/22, we once again budgeted funding to be used specifically on the proactive implementation of the PSOW Act 2019. Spending in the year was:

| <b>PSOW Act 2019: Expenditure in 2021/22</b> | <b>£000s</b> |
|--|--------------|
| Staff costs                                  | 267          |
| Premises                                     | 14           |
| Communications                               | 10           |
| Computer Services                            | 8            |
| Advisory and Legal                           | 2            |
| Training                                     | 1            |
| <b>Total</b>                                 | <b>302</b>   |
| Budget                                       | 332          |
| <b>Variance</b>                              | <b>30</b>    |



## Expenditure to 31 March 2022 compared to previous year

|   | 2021/22      | 2020/21      | Reasons for significant changes  |
|---|--------------|--------------|--|
|   | £000         | £000         |  |
| Salaries                                | 2,863        | 2,905        | 1.75% pay award, FTE decrease of 1 and greater use of Associate Investigation Officers during 2020/21. |
| Social Security costs                   | 273          | 283          |  |
| Pension costs                           | 745          | 758          |  |
| Pension fund charges                    | 39           | 20           |  |
| <b>Total Pay</b>                        | <b>3,920</b> | <b>3,966</b> |  |
| Rentals under operating leases          | 193          | 193          |  |
| External Audit fee                      | 19           | 17           |  |
| Legal and professional fees             | 173          | 193          | Continued management of professional advice and reduced legal fees.                                    |
| Other property costs                    | 171          | 168          |  |
| Computer services                       | 331          | 309          | Security and resilience upgrades.  |
| Office costs                            | 137          | 151          | Equipment provided for staff to enable home working purchased in 2020/21.                              |
| Travel and Subsistence                  | 6            | 1            | Continued minimal travel due to COVID-19 pandemic.   |
| Training and Recruitment                | 36           | 55           | Most training delivered online at lower cost.  |
| Communications                          | 47           | 41           |  |
| Depreciation                            | 61           | 61           |  |
| <b>Total other Administration Costs</b> | <b>1,174</b> | <b>1,189</b> |  |
| <b>Gross Costs</b>                      | <b>5,094</b> | <b>5,155</b> |  |
| Income                                  | (17)         | (991)        | One-off repayment of Pension Fund Surplus in 2020/21.  |
| <b>Net Expenditure</b>                  | <b>5,077</b> | <b>4,164</b> |  |
| Capital                                 | 37           | 5            | IT security and resilience upgrades.   |
| <b>Net Resource</b>                     | <b>5,114</b> | <b>4,169</b> |  |

More detailed financial information can be found in the financial statements and notes that support the accounts.

*MM Morris.*

**Michelle Morris**  
Accounting Officer

Public Services Ombudsman for Wales

20 July 2022

# Accountability Report 2021/22

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# Corporate Governance Report

## Ombudsman's Report

Under the Government of Wales Act 2006, the Office is financed through the Welsh Consolidated Fund (WCF) with any unspent cash balances repaid into the WCF after a certified copy of the accounts has been laid before the Welsh Parliament. This creates a further control in that there is a need to effectively manage the budget on both a cash and a resource basis. The salary of the office holder of the Public Services Ombudsman for Wales and the related costs are a direct charge on the WCF and are administered through the Welsh Parliament.

As at 31 March 2022, the Office comprised 74 permanent full and part-time staff based in Pencoed, Bridgend including the Ombudsman, Chief Operating Officer & Director of Improvement, Chief Legal Adviser & Director of Investigations, as well as investigation and support staff.

For the year 2021/22, my predecessor Nick Bennett was the Accounting Officer for the public funds with which the Welsh Parliament entrusts the Office to undertake its functions.

He has provided me with a letter of assurance confirming he has properly discharged the duties and responsibilities of Accounting Officer which I have considered when preparing this report.

The Welsh Parliament provided cash of £5.2 million for the funding of the Office. £120k of this overall funding is due to be returned to the WCF, being the unused cash balance at the year-end of £35k and a contingency sum of £85k which made available to us to fund any pay award above 1.75%. The pay award was settled at 1.75% therefore we are returning the full amount. The expenditure of the office was kept within the Estimate agreed in November 2020 and amended by a Supplementary Budget during 2021/22.

As referred to previously in the Report, our unit costs have fallen to their lowest levels and reflect the highest number of complaints and enquiries closed by the Office.

## Remuneration and Pension Liabilities

Details of the pay and related costs of the Ombudsman and the Office are shown in the Remuneration Report.

Pension obligations to present and past employees are discharged through the Principal Civil Service Pension Scheme (PCSPS) and the pensions paid directly to former Commissioners or their dependants.

Further details are given in the Pensions Disclosures.

## Corporate Governance

The office holder of the Public Services Ombudsman for Wales is a Corporation Sole.

The Audit & Risk Assurance Committee supports the Ombudsman by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and on the integrity of financial statements and the annual report. Further details are set out in the Annual Governance Statement.

## Register of Interests

A register of interests is maintained for the Ombudsman, Directors and members of the Advisory Panel and Audit & Risk Assurance Committee.

## Accounts Direction

Under the Accounts Direction issued by HM Treasury dated 21 December 2006, the Ombudsman is required to prepare accounts for the financial year ended 31 March 2022 in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (the FReM) issued by HM Treasury which was in force for 2021/22.

The accounts have been prepared to:

- Give a true and fair view of the state of affairs at 31 March 2022 and of the net resource out-turn, resources applied to objectives, recognised gains and losses and cash flows for the financial year then ended.
- Provide disclosure of any material expenditure or income that has not been applied for the purposes intended by the Welsh Parliament or material transactions that have not conformed to the authorities that govern them.

## Auditors

The Auditor General for Wales is the External Auditor of the accounts of the PSOW as laid down in paragraph 18 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2019.

The cost of the audit for 2021/22 was £19k (2020/21 = £17k).

As far as I am aware, my predecessor and I have taken all the steps necessary to make the auditors aware of any relevant audit information.

*MM Morris.*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

## Statement of Accounting Officer's Responsibilities

Under the Public Services Ombudsman (Wales) Act 2019, as Public Services Ombudsman for Wales I am required to prepare, for each financial year, resource accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the PSOW during the year.

The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the PSOW and its net resource out-turn, Statement of Financial Position and cash flows for the financial year.

In preparing the accounts, as the Accounting Officer, I am required to comply with the requirements of the 'Government Financial Reporting Manual' and in particular to:

- Observe the Accounts Direction issued by the Treasury including the relevant accounting and disclosure requirements and apply suitable accounting policies on a consistent basis.
- Make judgements and estimates on a reasonable basis.
- State whether applicable accounting standards as set out in the government financial reporting manual have been followed and disclose and explain any material departures in the accounts.
- Prepare the accounts on a going concern basis.
- Confirm that the annual report and accounts as a whole is fair, balanced and understandable.
- Take personal responsibility for the annual report and accounts and the judgements required for determining that it is fair, balanced and understandable.

My relevant responsibilities as Accounting Officer include the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the PSOW's assets, as set out in Managing Welsh Public Money and the Public Services Ombudsman (Wales) Act 2019.

As the Accounting Officer, I have taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to establish that PSOW's auditors are aware of that information. So far as I am aware, there is no relevant audit information of which the auditors are unaware.

# Annual Governance Statement 2021/22

## Status of the Public Services Ombudsman for Wales

As laid down in Schedule 1, paragraph 2 of the Public Services Ombudsman (Wales) Act 2019, the Ombudsman is a Corporation Sole holding Office under Her Majesty. The Ombudsman discharges the functions set down in legislation on behalf of the Crown. Schedule 1, paragraph 19 states that the Ombudsman is the Accounting Officer for the office of the Ombudsman.

## Scope of Responsibility

My predecessor Nick Bennett was Accounting Officer for the whole of the 2021/22 financial year and he has provided me with a letter of assurance confirming he has properly discharged the duties and responsibilities of Accounting Officer.

In undertaking the role of Accounting Officer, I and my predecessor have ensured that the office operates effectively and to a high standard of probity. In addition, the Ombudsman has responsibility for maintaining a sound system of internal control that supports the achievement of PSOW's policies, aims and objectives, whilst safeguarding the public funds and assets for which the Ombudsman is personally responsible, in accordance with the responsibilities set out in 'Managing Welsh Public Money'.

The Ombudsman is independent of the Welsh Parliament but is accountable to its Finance Committee and Public Accounts and Public Administration Committee for the use of resources provided. In determining the level of resources available to the office, the PSOW's budget proposals are considered by the Finance Committee of the Welsh Parliament in accordance with the process laid down in the Act. A combined Annual Report and Accounts is prepared for consideration by the Finance Committee.

I am required to include this Governance Statement with my annual report and accounts to explain how the governance of my office works and to ensure it meets the requirements of the Corporate Governance Code and The Orange Book: Management of Risk. To enable me to satisfy these requirements, I and my predecessor have maintained appropriate structures, systems and procedures that are comprehensive and provide me with evidence that the governance arrangements are working as intended across the whole organisation and its activities. Such arrangements include my Governance Framework, a comprehensive internal control environment, effective internal and external audit arrangements and robust financial management, risk planning and monitoring procedures.

## Strategic Planning and Performance Monitoring

In the **Strategic Plan** for the 3 years 2019/20 to 2021/22, my predecessor set the following for the Office:

### Our Vision for public services in Wales:

Services that actively listen and learn from complaints.

### Our Mission:

To uphold justice and improve public services.

### Our Strategic Aims:

#### Strategic Aim 1: Deliver Justice

A fair, independent, inclusive and responsive complaints service.

#### Strategic Aim 2: Promote Learning, Work to Improve Public Services

Promote learning from complaints and stimulate improvements on a wider scale.

#### Strategic Aim 3: Use Resources Wisely and Future-proof the Organisation

Identify and adopt best practice. Secure value for money and services that are fit for the future. Support staff and ensure good governance which supports and challenges us.

Whilst individual teams within the Office are charged with implementing the actions identified, the Management Team monitors progress made against targets and the outcomes achieved via monthly reports.

## System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable, and not absolute, assurance of effectiveness. It is based on an ongoing process designed to identify and prioritise the risks to the achievement of my policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.



The system has been in place in the office of the PSOW for the year ended 31 March 2022 and up to the date of approval of these accounts and accords with HM Treasury guidance. Internal controls were unaffected by changes resulting from the COVID-19 pandemic. No significant areas of internal control weaknesses have been identified from audit work and steps to improve controls further are implemented promptly and monitored by the Audit & Risk Assurance Committee.

## **Corporate Governance arrangements: Audit & Risk Assurance Committee**

Governance arrangements include an Audit & Risk Assurance Committee (ARAC). The Committee's responsibilities are:

### **a) Terms of Reference**

The Committee supports me by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements and the annual report.

### **b) Membership**

Membership comprises a minimum of four, and a maximum of eight, independent external members.

The membership of the Committee during 2021/22 was:

- Mr Ian Williams, former Group Chief Executive of Hendre Limited - Chair
- Mr Trevor Coxon, former Monitoring Officer of Wrexham County Borough Council
- Dr Tom Frawley CBE (until October 2021), former Assembly Ombudsman and Northern Ireland Commissioner for Complaints
- Mrs Anne Jones (until July 2021), former Assistant Information Commissioner
- Mr Jim Martin (until October 2021), former Scottish Public Services Ombudsman
- Mr John McSherry, former Senior Manager at Admiral Group Limited
- Mr Mike Usher, a former Director of Audit Wales
- Mrs Joanest Varney-Jackson (from October 2021), former Senior Lawyer for Welsh Parliament.

### c) Training

Members of the Committee are invited to assess their training needs annually. An induction programme is provided for all new members of the ARAC. During 2021 members took part in a Risk Workshop (June) and undertook Governance and Accountability training (October).

### d) Meetings

The Committee sets itself an annual work programme. There are generally four meetings of the Committee during the year. Due to the ongoing COVID-19 pandemic the majority of meetings in 2021/22 were held remotely using Zoom.

The Ombudsman attends ARAC Meetings and the Chief Operating Officer acts as Secretary to the Committee. The meetings were also regularly attended by internal and external auditors and appropriate members of the PSOW's Management Team.

At each meeting, the Committee received a number of standing agenda items. These include declarations of any identified fraud or losses, including any data losses. At each meeting, the Committee received a copy of the latest Budget Monitoring report considered by the Management Team. This is intended to provide the Committee with an assurance that there is regular scrutiny of the financial position of the office.

During the year, the Committee also received reports on a number of other appropriate matters within its Terms of Reference. They included the 9- and 12 month accounts, internal audit plans, internal audit reports, a review of the Whistleblowing Policy, updates on major IT developments, relevant financial and corporate governance matters. The Committee reviewed the Office's counter-fraud arrangements, in the context of the Cabinet Office Counter-Fraud Framework, and reviewed a proposed new anti-fraud policy, to satisfy itself that appropriate arrangements are in place. The Committee provided advice to me to ensure that the 2021/22 Annual Governance Statement included appropriate information and complied with best practice.

A standing item is risk management. At each meeting the Committee considered a report on the greatest identified risks. The Committee explored and challenged the reported risks to satisfy itself that key risks had been identified. The overall approach to risk management and risk mitigation was also considered at a workshop facilitated by the internal auditors. This resulted in a number of improvements to the risk management policy and process.

During the year, three members' terms of office ended, and one new member joined the Committee. The number of meetings attended, along with the number of meetings each member was eligible to attend, was as follows:

| <b>Committee Member</b> | <b>Maximum number of attendances possible</b> | <b>Actual number of attendances</b> | <b>% attended</b> |
|-------------------------|---|-------------------------------------|-------------------|
| Ian Williams (Chair)    | 4   | 4                                   | 100               |
| Trevor Coxon            | 4   | 4                                   | 100               |
| Tom Frawley             | 3   | 2                                   | 67                |
| Anne Jones              | 2   | 2                                   | 100               |
| Jim Martin              | 3   | 3                                   | 100               |
| John McSherry           | 4   | 4                                   | 100               |
| Mike Usher              | 4   | 4                                   | 100               |
| Joanest Varney-Jackson  | 2   | 2                                   | 100               |

### e) Internal and External Audit

The Committee received regular reports from both the internal and external auditors. This was the first year for new internal auditors TIAA who attended all meetings. The work of internal audit during the year was planned based on their overall needs assessment and carried out through their agreed annual programme. Their reports highlighted a satisfactory internal control framework within the organisation and made recommendations for improvement where necessary.

In all but one audit, the level of assurance was considered 'Substantial', the highest assurance level, with one report giving 'Reasonable' assurance. A number of recommendations were made, and these have either been completed or will be completed in accordance with agreed timescales. The internal audits undertaken in 2021/22 and overall assessments were as follows:

|   | <b>Assurance level</b> |
|---|------------------------|
| Systems – transition to Sage 200              | <b>SUBSTANTIAL</b>     |
| Complaints Handling (Casework)                | <b>SUBSTANTIAL</b>     |
| Governance – Audit & Risk Assurance Committee | <b>SUBSTANTIAL</b>     |
| Cyber security                                | <b>REASONABLE</b>      |
| <b>Financial Systems:</b>                     |                        |
| Budgetary Control                             | <b>SUBSTANTIAL</b>     |
| Purchasing & payments                         | <b>SUBSTANTIAL</b>     |
| Income  | <b>SUBSTANTIAL</b>     |

The internal auditors' Annual Report for 2021/22 stated: "The Public Services Ombudsman for Wales has reasonable and effective risk management, control and governance processes in place". These findings also provide assurance that the arrangements in place are reducing the office's exposure to risk.

The Committee noted the thoroughness of the audit work, practicality of recommendations and the open and positive response of management to the recommendations made.

In respect of the previous financial year, the Committee considered the 2020/21 Annual Report and Accounts that included the Governance Statement of the office for 2020/21, together with the External Audit of Financial Statements Report and Management Letter. An unqualified opinion was given, following external audit work undertaken by Audit Wales, on the 2020/21 Accounts. There were no recommendations arising from the Audit.

Both Internal and External Auditors have the right to raise any matter through an open access policy to the Chair and, through that right, to bring any matter to the attention of the Committee. The Committee, by reviewing the programmes of both the External and the Internal Auditors, ensured that they were co operating effectively with each other. The quality of the audit work has been evaluated during the year through consideration of the audit reports and recommendations and dialogue at meetings between Committee Members and the Auditors.

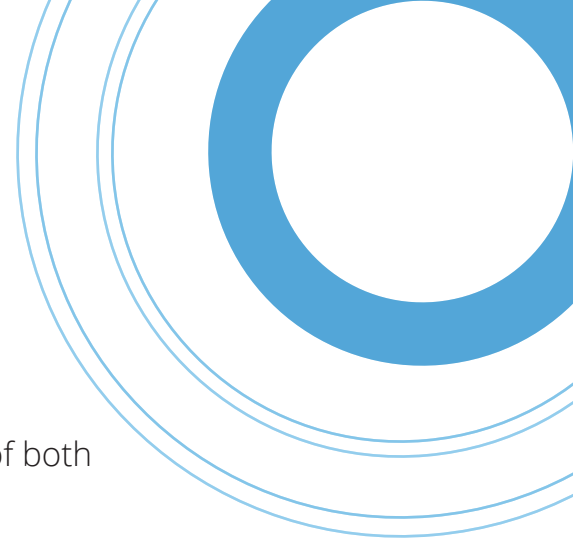
To ensure that appropriate matters can be raised in confidence, the Chair of the Committee generally holds an annual meeting with representatives of the External and Internal Auditors. Such a meeting was held on 25 March 2022.

## f) Monitoring processes

At each meeting during 2021/22, the Committee received a report on progress made on the implementation of External and Internal Audit recommendations. Committee members were satisfied that all the recommendations made, had been implemented or will be implemented in accordance with agreed timescales.

## g) Annual Review and Assessment

This annual review is undertaken to evaluate the work of the Committee and to ensure that the work of the Audit & Risk Assurance Committee continues to comply with the Good Practice Principles set out in the HM Treasury Audit Committee Handbook. To assist the Committee in determining that it was complying with good practice, each member was invited to complete the National Audit Office's 'The Audit Committee self-assessment checklist'. Comments received from Committee members were considered in preparing the Annual Review for 2021/22.



The ARAC Annual Review concluded that it had received comprehensive assurances and information that was reliable and sufficient to enable it to carry out its responsibilities. Those assurances demonstrated a satisfactory overall internal control environment, financial reporting and the management of risk and of the quality of both the Internal and External Audit work undertaken.

The Committee was therefore able to provide assurances to support me effectively, as Public Services Ombudsman for Wales, to comply with my Accounting Officer responsibilities. The Committee provided evidence to assist in the preparation of this Annual Governance Statement.

## **Reporting of Personal Data Related Incidents**

All incidents involving personal data are reported to the Audit & Risk Assurance Committee, regardless of whether PSOW is at fault. Where PSOW is at fault, guidance issued by the Information Commissioner's Office (ICO) is considered to establish whether it is necessary to report the incident to that office. During 2021/22, there were no incidents that required reporting to the ICO.

## **Advisory Panel**

The Advisory Panel is a non-statutory forum whose main role is to provide support and advice to me in providing leadership and setting the strategic objectives of the office of the Public Services Ombudsman for Wales. The Panel also brings an external perspective to assist in the development of policy and practice.

The Panel was chaired by Anne Jones until July 2021 when her term of office concluded. Dr Jane Martin, former Local Government Ombudsman, took over as Chair in October 2021 on recommendation of Panel members. Trevor Coxon, Mike Usher and Ian Williams were members throughout the year. Dr Tom Frawley and Jim Martin reached the end of their terms of office during the year

Following a recruitment exercise, Ms Carys Evans, former Head of Data and Insight at S4C, joined the panel in October 2021.

The Advisory Panel is an advisory-only body and does not make decisions in its own right.

## The Risk and Control Framework

As required by 'Managing Welsh Public Money', I am supported by a professionally qualified Financial Accountant who carries out the responsibilities of a Finance Director as set out in that document.

Risk management and the risk register are standing agenda items for the Audit & Risk Assurance Committee, and the approach to risk management, together with risk appetite, is reviewed periodically.

I am continuing to enhance the robust internal control arrangements to ensure that the office has the capacity to identify, assess and manage risk effectively.

In undertaking this responsibility during the year ended 31 March 2022, my predecessor was supported by a Chief Operating Officer to whom some of his responsibilities have been delegated.

Bearing in mind the letter of assurance I have received from my predecessor, I am satisfied that the systems in place identify potential risks at an early stage and enable, through active management, the appropriate action to be taken to minimise any adverse impact on the office.

The Audit & Risk Assurance Committee receives regular reports on the risks relating to this office, explores the office's approach to those risks and provides comments and suggestions on current and emerging risks.

Risks are considered across a number of key areas or risk horizons. These are:

- operations, including operational support
- financial risks
- governance and legal risks
- reputational risks
- data and information management risks.

Key risks at the financial year-end were identified as follows:

| Risk horizon                                | Risk affects:   | Risk management and mitigation:   | Residual risk:  |
|---|---|---|---|
| <b>Operations &amp; operational support</b> | <p>Risks from continued high number of complaints received and fixed staff resources.</p> <p>Year-end open caseload up 48% on last year (and 34% up on 2019/20). Maladministration complaints up 45% on 2020/21 (and 22% on 2019/20).</p> <p>Impact – slower service, increased pressure on staff and risk of stress.</p> | <p>Maximise staff resources within resources available. Support staff performance. Work closely and supportively with public bodies to improve their complaints handling.</p>   | <p>The continuing increase in number of new complaints, with fixed staff, means that the residual risk is considered <b>RED</b>.</p>  |
| <b>Data and information management</b>      | <p>Risk of cyber-attack, malware, ransomware or virus</p>   | <p>Systems have been upgraded in accordance with recommendations. Maintain and monitor currency of antivirus and other security software and test effectiveness. Increase staff awareness and vigilance through training. Pursue Cyber Essentials Plus accreditation.</p> | <p>The increase in adverse cyber activity and the potential scale of the impact on PSOW of any successful attack means that the residual risk is considered <b>RED</b>.</p> |

## Risk Assurance Framework Arrangements

| <b>PSOW Framework</b>  |   |  |   |
|--|---|--|---|
| <ul style="list-style-type: none"> <li>• Strategic objectives from Corporate Plan</li> <li>• Work programme</li> <li>• Risk management</li> <li>• Anti-fraud policy</li> <li>• Governance framework</li> <li>• Policies, procedures and code of conduct</li> </ul> |   |  |   |
| <b>Advisory Panel</b>  | <b>Accounting Officer</b>   | <b>Audit &amp; Risk Assurance Committee</b>  | <b>Management Team</b>  |
| Provides support and advice on vision, values and purposes as well as strategic direction and planning.  | Governance.<br>Decision making.<br>Financial management.<br>Risk management.                                  | Reviews and monitors governance, risks and internal controls.<br>Agrees annual governance statement. | 3-year Corporate Plan.<br>Operational Plan.<br>Performance monitoring.<br>Corporate policies.<br>Risk management.<br>Value for money. |
| <b>Central Guidance</b>  | <b>PSOW policies, plans and risk register</b>   |  | <b>Annual Governance Statement</b>  |
| HM Treasury.<br>FRoM.<br>Managing Welsh Public Money.<br>Public Sector Internal Audit.   |   |  |   |
| <b>Assurance Map Components</b>  |   |  |   |
| <b>1st line of defence</b><br>Strategic and operational delivery reporting.<br>KPI reporting.<br>Financial controls /<br>Budget monitoring.  | <b>2nd line of defence</b><br>Risk register reviews.<br>Quality assurance.<br>Information security assurance. |  | <b>3rd line of defence</b><br>Internal audit reports.<br>Financial accountant spot checks.  |
| Other assurances<br>External audit.<br>Scrutiny by Finance Committee and PA&PAC.   |   |  |   |



I and my Management Team will continue to work to manage and minimise the risks in these key areas in the year ahead and the risks will be considered at each meeting of the Audit & Risk Assurance Committee.

## Budgeting Process

As Accounting Officer, I ensure that I have in place arrangements for tight control of the public money entrusted to me. The Management Team receives a monthly budget monitoring report setting out details of actual, against budgeted expenditure. Any unexpected expenditure issues that may arise during the year are considered so that appropriate action can be taken to remain within the budgeted expenditure where possible or to seek additional resources where cost pressures cannot be contained. In 2021/22 the April 2021 pay award was not settled until March 2022, creating uncertainty as to affordability of what might be agreed. In addition, the Ombudsman received a report recommending priority action to improve IT systems resilience, security and performance. Additional resources were secured to address these two issues. The additional resources to cover for a higher than anticipated pay award were not ultimately required and those funds are being returned.

As far as the process of producing the PSOW's financial estimate for 2022/23 is concerned, a paper setting out initial budget criteria was considered by the Advisory Panel in July 2021. Overall, the submission sought an increase of 5.7% (resource) to reflect pay and price increases and the substantial caseload increases experienced throughout the year. Following Finance Committee scrutiny in October, the Committee did not support the submission. A revised submission, seeking a 4.4% increase, was submitted and supported by the Committee. This was included in the Wales Annual Budget Motion March 2022.

## Conclusion

The Office's system of internal controls was unaffected by the pandemic and by homeworking. I can report that there were no significant weaknesses in the office's system of internal controls in 2021/22 which would affect the achievement of the office's policies, aims and objectives and that robust Corporate Governance is in operation with no breaches of the Corporate Governance Code.

*MM. Morris.*

**Michelle Morris**  
**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# Remuneration Report

## Public Services Ombudsman for Wales

The Government of Wales Act 2006 provides for my remuneration and associated national insurance and pension costs to be met from the Welsh Consolidated Fund, rather than being paid directly. These costs are included, for transparency, in the remuneration report.

## Remuneration

The following sections provide details of the remuneration and pension interest of the most senior management of the Office: Nick Bennett - Ombudsman, Chris Vinestock - Chief Operating Officer & Director of Improvement and Katrin Shaw - Chief Legal Adviser & Director of Investigations.

| <b>Single Total Figure of Remuneration</b> |                       |                               |   |   |                      |
|--|-----------------------|-------------------------------|---|---|----------------------|
| <b>2021/22</b>                             |                       |                               |   |   |                      |
| <b>Officials</b>                           | <b>Salary (£'000)</b> | <b>Bonus payments (£'000)</b> | <b>Benefits in Kind (to nearest £100)</b> | <b>Pension benefits (to nearest £1,000)</b> | <b>Total (£'000)</b> |
| Nick Bennett                               | 150-155               | -                             | -   | 59,000                                      | 210-215              |
| Chris Vinestock                            | 105-110               | -                             | -   | 27,000                                      | 135-140              |
| Katrin Shaw                                | 90-95                 | -                             | -   | 28,000                                      | 120-125              |

| <b>Single Total Figure of Remuneration</b> |                       |                               |   |   |                      |
|--|-----------------------|-------------------------------|---|---|----------------------|
| <b>2020/21</b>                             |                       |                               |   |   |                      |
| <b>Officials</b>                           | <b>Salary (£'000)</b> | <b>Bonus payments (£'000)</b> | <b>Benefits in Kind (to nearest £100)</b> | <b>Pension benefits (to nearest £1,000)</b> | <b>Total (£'000)</b> |
| Nick Bennett                               | 150-155               | -                             | -   | 59,000                                      | 210-215              |
| Chris Vinestock                            | 105-110               | -                             | -   | 75,000                                      | 180-185              |
| Katrin Shaw                                | 90-95                 | -                             | -   | 61,000                                      | 150-155              |

## Salary

Salary includes gross salary, overtime and any other allowances to the extent that they are subject to UK taxation.

## Benefits in kind

The monetary value of benefits in kind, covers any expenditure paid by the PSOW and treated by HM Revenue and Customs as a taxable emolument. There was no such expenditure.

## Bonuses

No bonus was paid during the year to me or to any staff within my office, as no bonus scheme is in operation.

## Pay multiples

The banded remuneration of the highest-paid director in the financial year 2021/22 was £150-£155,000 (2020/21 = £150-£155,000).

The FreM for 2021/22 requires increased reporting on fair pay disclosures.

|  | 2021/22 | 2020/21 |
|--|---------|---------|
| 25 <sup>th</sup> percentile remuneration | £32,799 | £32,235 |
| 25 <sup>th</sup> percentile pay ratio    | 4.6     | 4.7     |
| 50 <sup>th</sup> percentile remuneration | £44,625 | £43,857 |
| 50 <sup>th</sup> percentile pay ratio    | 3.4     | 3.5     |
| 75 <sup>th</sup> percentile remuneration | £48,876 | £44,865 |
| 75 <sup>th</sup> percentile pay ratio    | 3.1     | 3.4     |

In 2021/22, no employee received remuneration in excess of the highest-paid director (2020/21 = none).

Remuneration ranged from £20,000 to £155,000 (2020/21= £20,000-£155,000). Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, temporary payments, employer pension contributions and the cash equivalent transfer value of pensions.

The percentage change from the previous financial year in respect of highest paid director was nil. The average percentage change from the previous financial year in respect of employees taken as a whole was 3%.

## Pay awards

Staff pay is linked to the pay awards made to employees within Local Government in England and Wales. In line with that procedure, a 1.75% pay increase was awarded to staff in March 2022 backdated to April 2021.

## Pensions

Pension entitlements for the persons shown earlier in the report are detailed below:

### Pension Liabilities

The pension obligations to present and past employees are discharged through the Principal Civil Service Pension Scheme (PCSPS) and the pensions paid directly to former Commissioners or their dependants.

| Name            | As at 31/03/22                                      |  |      |                       |   | As at<br>31/03/21 |
|-----------------|---|--|------|-----------------------|---|-------------------|
|                 | Accrued pension at pension age and related lump sum | Real increase in pension and related lump sum at pension age | CETV | Real Increase in CETV | Employer contribution to partnership pension accounts | CETV              |
|                 | £000  | £000   | £000 | £000                  | Nearest £100  | £000              |
| Nick Bennett    | 50-55   | 2.5-5  | 688  | 33                    | -   | 623               |
| Chris Vinestock | 70-75   | 0-2.5  | 1068 | 15                    | -   | 997               |
| Katrin Shaw     | 40-45   | 0-2.5  | 666  | 13                    | -   | 617               |

CETV refers to the Cash Equivalent Transfer Value, and further information can be found in the Pensions Disclosures.

## Sickness

During the year, an average of 7.2 days per employee were lost through sickness, compared with 3.0 days in 2020/21. This is the equivalent of 2.7% (1.1% in 2020/21) of total possible workdays. Short-term absences fluctuate from year to year and increased slightly in 2021/22. Long-term sickness increased from 0.5% of days to 1.7%.

This increase is due to several members of staff incurring absence due to stress, though much of this was not work-related. Stress overall accounted for 59% of days lost, with work-related stress accounting for 15% of days lost.

## Reporting of Civil Service and other compensation schemes

No exit packages were paid in 2021/22 (2020/21 Nil).

### Advisory Panel and Audit & Risk Assurance Committee

The following non-pensionable payments, based on a daily rate, were made to members of the Advisory Panel and Audit & Risk Assurance Committee:

|                        | 2021/22 | 2020/21 |
|------------------------|---------|---------|
| Ian Williams           | 3,150   | 2,011   |
| Jane Martin            | 2,350   | 1,482   |
| Mike Usher             | 2,100   | 1,050   |
| Jim Martin             | 1,925   | 1,711   |
| Trevor Coxon           | 1,925   | 1,711   |
| John McSherry          | 1,800   | 900     |
| Anne Jones             | 1,575   | 2,221   |
| Tom Frawley            | 1,225   | 1,711   |
| Joanest Varney-Jackson | 1,200   | -       |
| Carys Evans            | 1,050   | -       |
| Jonathan Morgan        | -       | 1,082   |
| Rhiannon Ivens         | -       | 900     |

These figures also include payments made to members for attendance at risk workshops and training sessions during 2021/22.

For staff reporting issues see the Annual Equality Report.

*MM Morris*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# Welsh Parliament Accountability and Audit Report

In addition to the primary statements prepared under **International Financial Reporting Standards (IFRS)**, the Government Financial Reporting Manual (FReM) requires the Ombudsman to prepare a statement and supporting notes to show resource out-turn against the Supply Estimate presented to the Senedd, in respect of each request for resource.

## Summary of Net Resource Out-turn for year ending 31 March 2022

|                             | Revised Estimate  |             |              | Out-turn          |             |              |                                | 2020/21      |
|-----------------------------|-------------------|-------------|--------------|-------------------|-------------|--------------|--------------------------------|--------------|
|                             | Gross Expenditure | Income      | Net Total    | Gross Expenditure | Income      | Net Total    | Net total compared to estimate | Net Total    |
|                             | £000              | £000        | £000         | £000              | £000        | £000         | £000                           | £000         |
| Revenue                     | 5,259             | (17)        | 5,242        | 5,094             | (17)        | 5,077        | 165                            | 4,164        |
| Capital                     | 46                | -           | 46           | 37                | -           | 37           | 9                              | 5            |
| <b>Resource DEL</b>         | <b>5,305</b>      | <b>(17)</b> | <b>5,288</b> | <b>5,131</b>      | <b>(17)</b> | <b>5,114</b> | <b>174</b>                     | <b>4,169</b> |
| Resource AME                | -                 | -           | -            | -                 | -           | -            | -                              | 974          |
| <b>Total Resources</b>      | <b>5,305</b>      | <b>(17)</b> | <b>5,288</b> | <b>5,131</b>      | <b>(17)</b> | <b>5,114</b> | <b>174</b>                     | <b>5,143</b> |
| <b>Net Cash Requirement</b> | <b>5,246</b>      | <b>-</b>    | <b>5,246</b> | <b>5,143</b>      | <b>(17)</b> | <b>5,126</b> | <b>120</b>                     | <b>4,076</b> |

The Revised Estimate for 2021/22 includes a contingency of £85,000 for any additional pay award above 1.75%. The pay award was settled at 1.75% therefore we are returning the full amount. This gives a true operational net total out-turn compared to estimate of:

Resource    £89,000  
Cash        £35,000

The 2020/21 figures include a one-off pension surplus adjustment. The Ombudsman's salary is paid directly from the Welsh Consolidated Fund with only the reimbursement of actual business expenses included in the PSOW accounts.

# Reconciliation of Net Resource to Net Cash Requirements

for the year ended 31 March 2022

|                              | Note | 2021/22          |                    |   | 2020/21      |
|------------------------------|------|------------------|--------------------|---|--------------|
|                              |      | Revised Estimate | Net Total Out-turn | Net total out-turn compared to revised estimate | Out-turn     |
|                              |      | £000             | £000               | £000  | £000         |
| Net Revenue                  | 2-4  | 5,242            | 5,077              | 165   | 4,164        |
| Net Capital                  | 6    | 46               | 37                 | 9   | 5            |
| Resource AME                 |      | -                | -                  | -   | 974          |
| <b>Total Resources</b>       |      | <b>5,288</b>     | <b>5,114</b>       | <b>174</b>                                      | <b>5,143</b> |
| Movement in provisions       | 10   | -                | (11)               | 11  | 10           |
| Capital charges              | 6    | (62)             | (61)               | (1)   | (61)         |
| Movements in working capital | 7-9  | 20               | 84                 | (64)  | (42)         |
| Adjustments                  |      | -                | -                  | -   | (974)        |
| <b>Net cash requirement</b>  |      | <b>5,246</b>     | <b>5,126</b>       | <b>120</b>                                      | <b>4,076</b> |

*MM Morris*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# The Certificate and Independent Auditor's Report of the Auditor General for Wales to the Senedd

## Report on financial statements

### Opinion

I certify that I have audited the financial statements of the Public Services Ombudsman for Wales for the year ended 31 March 2022 under paragraph 18 (2) of Schedule 1 of the Public Services Ombudsman (Wales) Act 2019. These comprise the Summary of Net Resource Out-turn, Statement of Comprehensive Net Expenditure, Statement of Financial Position, Consolidated Statement of Cash Flows, Statement of Changes in Taxpayers Equity and related notes, including a summary of significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards as interpreted and adapted by HM Treasury's Financial Reporting Manual.

In my opinion the financial statements:

- give a true and fair view of the state of the Public Services Ombudsman for Wales' affairs as at 31st March 2022 and of its net cash requirement, net resource outturn and net operating cost, for the year then ended;
- have been properly prepared in accordance with international accounting standards as interpreted and adapted by HM Treasury's Financial Reporting Manual and
- have been properly prepared in accordance with HM Treasury directions issued under the Public Services Ombudsman (Wales) Act 2019.

### Opinion on regularity

In my opinion, in all material respects, the expenditure and income in the financial statements have been applied to the purposes intended by the Senedd and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Basis of opinions

I conducted my audit in accordance with applicable law and International Standards on Auditing in the UK (ISAs (UK)) and Practice Note 10 "Audit of Financial Statements



of Public Sector Entities in the United Kingdom". My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I am independent of the body in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinions.

## Conclusions relating to going concern

In auditing the financial statements, I have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

My responsibilities and the responsibilities of the Accounting Officer with respect to going concern are described in the relevant sections of this report.

## Other information

The other information comprises the information included in the annual report other than the financial statements and my auditor's report thereon. Legislation and directions issued to the Public Services Ombudsman for Wales do not specify the content and form of the other information to be presented with the financial statements. The Accounting Officer is responsible for the other information in the annual report. My opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in my report, I do not express any form of assurance conclusion thereon. My responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or knowledge obtained in the course of the audit, or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

## Report on other requirements

### Opinion on other matters

As legislation and directions issued to the Public Services Ombudsman for Wales do not specify the content and form of the other information to be presented with the financial statements, I am not able to confirm that the other information to be issued with financial statements has been prepared in accordance with guidance.

In my opinion, based on the work undertaken in the course of my audit, the information given in the Annual Report is consistent with the financial statements.

Although there are no legislative requirements for a Remuneration Report, the Public Services Ombudsman for Wales has prepared such a report and in my opinion, that part ordinarily required to be audited has been prepared in accordance with HM Treasury guidance.

Although there are no legislative requirements for an Annual Governance Statement, based on the work undertaken in the course of my audit the information given in the Annual Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and the Annual Governance Statement has been prepared in accordance with HM Treasury guidance.

### Matters on which I report by exception

In the light of the knowledge and understanding of the body and its environment obtained in the course of the audit, I have not identified material misstatements in the Annual Report.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- proper accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my team;
- the financial statements are not in agreement with the accounting records and returns;
- information specified by HM Treasury regarding the remuneration and other transactions is not disclosed; or
- I have not received all of the information and explanations I require for my audit.

## Responsibilities

### Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for preparing the financial statements in accordance with the Public Services Ombudsman for Wales Act 2019 and HM Treasury directions made there under, for being satisfied that they give a true and fair view and for such internal control as the Accounting Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accounting Officer is responsible for assessing the body's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless deemed inappropriate.

### Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. I design procedures in line with my responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud.

My procedures included the following:

- Enquiring of management, and those charged with governance, including obtaining and reviewing supporting documentation relating to the Public Services Ombudsman for Wales' policies and procedures concerned with:
  - identifying, evaluating and complying with laws and regulations and whether they were aware of any instances of non-compliance;
  - detecting and responding to the risks of fraud and whether they have knowledge of any actual, suspected or alleged fraud; and
  - the internal controls established to mitigate risks related to fraud or non-compliance with laws and regulations.

- Considering as an audit team how and where fraud might occur in the financial statements and any potential indicators of fraud. As part of this discussion, I identified potential for fraud in the following areas: revenue recognition, posting of unusual journals and
- Obtaining an understanding of the Public Services Ombudsman for Wales' framework of authority, as well as other legal and regulatory frameworks that the Public Services Ombudsman for Wales operates in, focusing on those laws and regulations that had a direct effect on the financial statements or that had a fundamental effect on the operations of the Public Services Ombudsman for Wales.

In addition to the above, my procedures to respond to identified risks included the following:

- reviewing the financial statement disclosures and testing to supporting documentation to assess compliance with relevant laws and regulations discussed above;
- enquiring of management, the Audit and Risk Assurance Committee and legal advisors about actual and potential litigation and claims;
- reading minutes of meetings of those charged with governance and the Advisory Board; and
- in addressing the risk of fraud through management override of controls, testing the appropriateness of journal entries and other adjustments; assessing whether the judgements made in making accounting estimates are indicative of a potential bias; and evaluating the business rationale of any significant transactions that are unusual or outside the normal course of business; and

I also communicated relevant identified laws and regulations and potential fraud risks to all audit team and remained alert to any indications of fraud or non-compliance with laws and regulations throughout the audit.

The extent to which my procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the Public Services Ombudsman for Wales' controls, and the nature, timing and extent of the audit procedures performed.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my auditor's report.

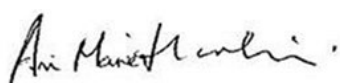
## Responsibilities for regularity

The Accounting Officer is responsible for ensuring the regularity of financial transactions.

I am required to obtain sufficient evidence to give reasonable assurance that the expenditure and income have been applied to the purposes intended by the Senedd and the financial transactions conform to the authorities which govern them.

## Report

I have no observations to make on these financial statements.



**Ann-Marie Harkin**  
**For and on behalf of**  
**Auditor General for Wales**  
22 July 2022

**24 Cathedral Road**  
**Cardiff**  
**CF11 9LJ**

# Annual Accounts 2021/22

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# Statement of Comprehensive Net Expenditure

for the year ended 31 March 2022

| Administration costs                 | Note | 2021/22      | 2020/21      |
|--------------------------------------|------|--------------|--------------|
|                                      |      | £000         | £000         |
| Staff costs                          | 2    | 3,920        | 3,966        |
| Other non-staff administration costs | 3    | 1,174        | 1,189        |
| <b>Gross Administration Costs</b>    |      | <b>5,094</b> | <b>5,155</b> |
| Operating Income                     | 4    | (17)         | (991)        |
| <b>Net Administration Costs</b>      |      | <b>5,077</b> | <b>4,164</b> |
| <b>Net Revenue Out-turn</b>          |      | <b>5,077</b> | <b>4,164</b> |

Notes 1 to 19 form part of these statements.

All activities commenced in the period are continuing.

# Statement of Financial Position

for the year ended 31 March 2022

|  | Note | 2021/22      | 2020/21      |
|--|------|--------------|--------------|
|  |      | £000         | £000         |
| <b>Non-current assets</b>                    |      |              |              |
| Property, Plant and Equipment                | 6a   | 150          | 170          |
| Intangible assets                            | 6b   | 120          | 124          |
| Receivables due after more than 1 year       | 7    | -            | 1            |
|  |      | <b>270</b>   | <b>295</b>   |
| <b>Current Assets</b>                        |      |              |              |
| Trade and other receivables                  | 7    | 255          | 228          |
| Cash and cash equivalents                    | 8    | 120          | 20           |
|  |      | <b>375</b>   | <b>248</b>   |
| <b>Total assets</b>                          |      | <b>645</b>   | <b>543</b>   |
| <b>Current liabilities</b>                   |      |              |              |
| Trade and other payables                     | 9    | (297)        | (250)        |
| Provisions less than 1 year                  | 10   | (45)         | (45)         |
|  |      | <b>(342)</b> | <b>(295)</b> |
| <b>Total assets less current liabilities</b> |      | <b>303</b>   | <b>248</b>   |
| <b>Non-current liabilities</b>               |      |              |              |
| Trade and other payables due after 1 year    | 9    | (10)         | (15)         |
| Provisions greater than 1 year               | 10   | (482)        | (471)        |
|  |      | <b>(492)</b> | <b>(486)</b> |
| <b>Total assets less liabilities</b>         |      | <b>(189)</b> | <b>(238)</b> |
| <b>General Fund</b>                          |      | <b>(189)</b> | <b>(238)</b> |



Notes 1 to 19 and the Pension Disclosures form part of these statements.

The financial statements were approved by the Accounting Officer and authorised for issue on 20 July 2022 by:

*MM Morris.*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

## Statement of Cash Flows

for the year ended 31 March 2022

|  | Note | 2021/22    | 2020/21     |
|--|------|------------|-------------|
|  |      | £000       | £000        |
| Net cash outflow from operating activities   | 11   | (5,089)    | (4,071)     |
| Net cash outflow from investing activities   | 12   | (37)       | (5)         |
| Financing from Welsh Parliament  | 13   | 5,246      | 4,096       |
| Prior year cash balance repaid   |      | (20)       | (48)        |
| <b>Net increase (decrease) in cash equivalents after adjustments for payments to Welsh Consolidated Fund</b> |      | <b>100</b> | <b>(28)</b> |
| <b>Cash and cash equivalents at beginning of period</b>  |      | <b>20</b>  | <b>48</b>   |
| <b>Cash and cash equivalents at end of period</b>  |      | <b>120</b> | <b>20</b>   |

Notes 1 to 19 form part of these statements.

## Statement of Changes in Taxpayers' Equity

for the year ended 31 March 2022

| General Fund  | 2021/22      | 2020/21        |
|---|--------------|----------------|
|   | £000         | £000           |
| <b>Balance as at 1 April</b>                        | <b>(238)</b> | <b>930</b>     |
| Net operating costs                                 | (5,077)      | (4,164)        |
| Funding by Welsh Parliament                         | 5,246        | 4,096          |
| Due back to Welsh Consolidated Fund:                |              |                |
| Cash  | (120)        | (20)           |
| Non-operating income                                | -            | -              |
| Actuarial re-measurement of LGPS pension fund       | -            | (106)          |
| Pension Fund Surplus                                | -            | (974)          |
| <b>Total recognised income and expense for year</b> | <b>49</b>    | <b>(1,168)</b> |
| <b>Balance as at 31 March</b>                       | <b>(189)</b> | <b>(238)</b>   |

Notes 1 to 19 and the Pension Disclosures form part of these statements.

# Notes to the Financial Statements

## 1. Statement of Accounting Policies

These financial statements have been prepared in accordance with the Government Financial Reporting Manual (the FReM) issued by HM Treasury which is in force for 2021/22. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adopted or interpreted for the public sector. Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the PSOW for the purpose of giving a true and fair view has been selected. The particular accounting policies adopted by the PSOW are described below. They have been applied consistently in dealing with items considered material in relation to the accounts.

### 1.1 Accounting Convention

These accounts have been prepared under the historical cost convention modified to account for any revaluation of fixed assets, where material to their value to the business, by reference to their current costs.

### 1.2 Property, Plant and Equipment

Expenditure on property, plant and equipment is capitalised where the purchases are expected to have a useful life extending over more than 1 year and the cost exceeds £5k. Assets costing less than £5k may be capitalised providing they are capital in nature and are part of a larger scheme that is, in total, more than £5k. Assets are shown at cost less an allowance for depreciation. On initial recognition, fixed assets are measured at cost, including such costs as installation, which are directly attributable to bringing them into working condition for their intended use. In reviewing the costs of fixed assets previously acquired and the prices paid for new acquisitions during the year there is no material difference between the historic net book value of the assets and their replacement cost less depreciation.

### 1.3 Depreciation

Assets are depreciated at rates calculated to write them down to zero or, if applicable, estimated residual value on a straight-line basis over their estimated useful life following an initial charge of a full month's depreciation in the month of purchase. Assets in the course of construction are depreciated from the month in which the asset is brought into use.

Except where otherwise noted asset lives are assumed to be the following:

|                               |   |
|-------------------------------|---|
| Plant                         | 10 years or the lease term if shorter               |
| Furniture and other fittings  | 10 years or in the case of fittings, the lease term |
| Computers and other equipment | 3 to 10 years                                       |

## 1.4 Intangible assets

Purchased computer software licences and developed software are capitalised where expenditure of £5k or more is incurred, and the useful life is more than 1 year. Intangible assets costing less than £5k may be capitalised providing they are capital in nature and are part of a larger scheme that is, in total, more than £5k. Intangible assets are reviewed annually for impairment and are stated at amortised historic cost. Software licences are amortised over the shorter of the term of the licence and the useful economic life of the computer equipment on which they are installed. This would usually be from 3 to 5 years. Developed software is amortised over the estimated useful life. In the year of acquisition, amortisation charges commence when the asset is brought into use.

## 1.5 Value Added Tax

The PSOW is not registered for VAT. Expenditure is therefore disclosed gross of VAT.

## 1.6 Pensions

The pension obligations to present and past employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS) and by direct payment to previous Commissioners for Local Administration in Wales or any surviving beneficiaries. Full details are disclosed in the Pension Disclosures at the end of the Financial Statements. The costs of providing these pensions are charged through the Statement of Comprehensive Net Expenditure.

## 1.7 Early departure costs

Where the PSOW is required to meet the additional cost of benefits beyond the normal benefits payable by the appropriate pension scheme in respect of employees who retire early, these costs are charged to the Statement of Comprehensive Net Expenditure in full when the liability arises.

## 1.8 Leases

Expenditure on leased property and equipment is charged in the period to which it relates.

## 1.9 Staff Costs

In line with IAS 19, short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, as well as non-monetary benefits for current employees, are recognised when an employee has rendered services in exchange for those benefits.

## 1.10 Provisions

These are sums which are of uncertain timing or amount at the balance sheet date and represent the best estimate of the expenditure required to settle the obligations. Where the effect of the time value of money is significant, the estimated risk adjusted cash flows are discounted using the recommended HM Treasury discount rate.

## 1.11 Income

All income is recognised in the Statement of Comprehensive Net Expenditure in accordance with IAS 18 and IFRS 15.

## 1.12 Impact of Standards Not Yet Effective

| Standard                       | Effective date         | Further details   |
|--------------------------------|------------------------|---|
| IFRS 16<br>Leases              | 2022-23                | <p>IFRS 16 will replace the current leases standard IAS 17 and requires a lessee to recognise assets and liabilities for leases with a term of more than 12 months, unless the underlying asset is of low value. A lessee is required to recognise a right of use asset representing its right to use the underlying leased asset and a lease liability representing its obligation to make lease payments. As a consequence, a lessee also recognises depreciation of the right-of-use asset and interest on the lease liability and classifies cash repayments of the lease liability into a principal and interest portion. This is a significant change in lease accounting.</p> <p>From 1 April 2022, our office building will be recognised as a new right-of-use asset and it will be depreciated over the anticipated future lease period. This change will result in an increase to the depreciation and interest finance charges in the Ombudsman's budget.</p> <p>For PSOW the potential impact of implementing the standard will be:</p> <ul style="list-style-type: none"> <li>• Creation of right-of-use asset valued at £685k</li> <li>• Premises and facilities – a decrease of £198k</li> <li>• Change in working capital – an increase of £198k</li> <li>• Interest – a new charge of £7k</li> <li>• Depreciation – an increase of £204k</li> </ul> <p>Overall, there will be an increase in resource expenditure of £13k but no impact on the cash requirement from the Welsh Consolidated Fund.</p> |
| IFRS 17<br>Insurance Contracts | 2023-24<br>at earliest | <p>IFRS 17 replaces IFRS 4 Insurance Contracts, and requires a current measurement model, using updated information on obligations and risks, and requiring service results to be presented separately from finance income or expense. It applies to all insurance contracts issued, irrespective of the type of entity issuing the contracts, so is not relevant only for insurance companies.</p>   |

## 2. Staff Costs and Numbers

The aggregate employment costs were as follows:

|                          | 2021/22      | 2020/21      |
|--------------------------|--------------|--------------|
|                          | £000         | £000         |
| Permanent staff:         |              |              |
| Salaries                 | 2,836        | 2,856        |
| Social Security costs    | 272          | 280          |
| Pension costs            | 745          | 751          |
| Pension fund charges     | 39           | 20           |
| <b>Total</b>             | <b>3,892</b> | <b>3,907</b> |
| Temporary staff:         |              |              |
| Salaries                 | 27           | 49           |
| Social Security costs    | 1            | 3            |
| Pension costs            | -            | 7            |
| <b>Total</b>             | <b>28</b>    | <b>59</b>    |
| <b>Total Staff Costs</b> | <b>3,920</b> | <b>3,966</b> |

The average number of whole-time equivalent persons employed (including senior management and fixed term appointments) during the year was as follows:

|                               | 2021/22   | 2020/21   |
|-------------------------------|-----------|-----------|
|                               | No.       | No.       |
| Directors                     | 2         | 2         |
| Communications and PA         | 3         | 3         |
| Complaints and Investigations | 49        | 51        |
| Improvement Team              | 5         | 5         |
| Support                       | 8         | 7         |
| <b>Total</b>                  | <b>67</b> | <b>68</b> |

### 3. Non-Staff Administration Costs

|   | 2021/22      | 2020/21      |
|---|--------------|--------------|
|   | £000         | £000         |
| Rentals under operating leases          | 193          | 193          |
| External Audit fee                      | 19           | 17           |
| Legal and professional fees             | 173          | 193          |
| Other property costs                    | 171          | 168          |
| Computer services                       | 331          | 309          |
| Office costs                            | 137          | 151          |
| Travel and Subsistence                  | 6            | 1            |
| Training and Recruitment                | 36           | 55           |
| Communications                          | 47           | 41           |
| <b>Sub-total</b>                        | <b>1,113</b> | <b>1,128</b> |
| Depreciation                            | 36           | 37           |
| Amortisation charge                     | 25           | 24           |
| Loss on disposal                        | -            | -            |
| <b>Sub-total</b>                        | <b>61</b>    | <b>61</b>    |
| <b>Total Other Administration Costs</b> | <b>1,174</b> | <b>1,189</b> |

The 2020/21 figures have been restated to move the £45k service charge cost from “rentals under operating leases” to “other property costs” in preparation for the implementation of IFRS 16 from 1 April 2022.

### 4. Operating Income

|   | 2021/22     | 2020/21      |
|---|-------------|--------------|
|   | £000        | £000         |
| Seconded staff                          | (16)        | (16)         |
| Pension Fund Surplus Repayment          | -           | (974)        |
| Other – Future Generations Commissioner | (1)         | (1)          |
| <b>Total</b>                            | <b>(17)</b> | <b>(991)</b> |

The 2020/21 figures include a one-off pension surplus repayment of £974k.



## 5. Operating Costs by Strategic Aims

The costs of providing a first-class Ombudsman service to Wales are set out below. We have 3 strategic aims for delivering our mission and the allocation of costs to each of the aims has been based on the following:

- an estimate of the staff time spent on the objective
- direct allocation of expenditure where applicable
- apportionment of other costs pro rata to the estimate of staff time.

|  | 2021/22      |              | 2020/21      |              |
|--|--------------|--------------|--------------|--------------|
|  | £000         | %            | £000         | %            |
| <b>Strategic Aim 1:</b><br>A fair, independent, inclusive and responsive complaints service.   | 3,918        | 77.2         | 3,965        | 77.2         |
| <b>Strategic Aim 2:</b><br>Promote learning from complaints and stimulate improvements on a wider scale.   | 944          | 18.6         | 959          | 18.7         |
| <b>Strategic Aim 3:</b><br>Identify and adopt best practice. Secure value for money and services that are fit for the future. Support staff and ensure good governance which supports and challenges us. | 215          | 4.2          | 214          | 4.1          |
| <b>Net Resources Out-turn</b>  | <b>5,077</b> | <b>100.0</b> | <b>5,138</b> | <b>100.0</b> |

The Aims analysis excludes capital expenditure.

## 6a. Property, Plant and Equipment

| 2021/22                                    | Plant        | Computers and other equipment | Furniture and other fittings | Total        |
|--|--------------|-------------------------------|------------------------------|--------------|
|  | £000         | £000                          | £000                         | £000         |
| <b>Cost or valuation at 1 April</b>        | <b>156</b>   | <b>224</b>                    | <b>442</b>                   | <b>822</b>   |
| Additions                                  | -            | 16                            | -                            | 16           |
| Disposals                                  | -            | -                             | -                            | -            |
| <b>At 31 March</b>                         | <b>156</b>   | <b>240</b>                    | <b>442</b>                   | <b>838</b>   |
| <b>Depreciation as at 1 April</b>          | <b>(156)</b> | <b>(154)</b>                  | <b>(342)</b>                 | <b>(652)</b> |
| Charged in the year                        | -            | (17)                          | (19)                         | (36)         |
| Disposals                                  | -            | -                             | -                            | -            |
| <b>At 31 March</b>                         | <b>(156)</b> | <b>(171)</b>                  | <b>(361)</b>                 | <b>(688)</b> |
| <b>Carrying amount as at 31 March 2022</b> | <b>-</b>     | <b>69</b>                     | <b>81</b>                    | <b>150</b>   |
| Carrying amount as at 31 March 2021        | -            | 70                            | 100                          | 170          |

| 2020/21                                    | Plant        | Computers and other equipment | Furniture and other fittings | Total        |
|--|--------------|-------------------------------|------------------------------|--------------|
|  | £000         | £000                          | £000                         | £000         |
| <b>Cost or valuation at 1 April</b>        | <b>156</b>   | <b>223</b>                    | <b>438</b>                   | <b>817</b>   |
| Additions                                  | -            | 1                             | 4                            | 5            |
| Disposals                                  | -            | -                             | -                            | -            |
| <b>At 31 March</b>                         | <b>156</b>   | <b>224</b>                    | <b>442</b>                   | <b>822</b>   |
| <b>Depreciation as at 1 April</b>          | <b>(156)</b> | <b>(136)</b>                  | <b>(323)</b>                 | <b>(615)</b> |
| Charged in the year                        | -            | (18)                          | (19)                         | (37)         |
| Disposals                                  | -            | -                             | -                            | -            |
| <b>At 31 March</b>                         | <b>(156)</b> | <b>(154)</b>                  | <b>(342)</b>                 | <b>(652)</b> |
| <b>Carrying amount as at 31 March 2021</b> | <b>-</b>     | <b>70</b>                     | <b>100</b>                   | <b>170</b>   |
| Carrying amount as at 31 March 2020        | -            | 87                            | 115                          | 202          |

## 6b. Intangible Assets

| 2021/22                                   | Information Technology | Software Licences | Total        |
|---|------------------------|-------------------|--------------|
|   | £000                   | £000              | £000         |
| <b>Cost or valuation at 1 April</b>       | <b>497</b>             | <b>52</b>         | <b>549</b>   |
| Additions                                 | 21                     | -                 | 21           |
| Disposals                                 | -                      | -                 | -            |
| <b>At 31 March</b>                        | <b>518</b>             | <b>52</b>         | <b>570</b>   |
| <b>Amortisation as at 1 April</b>         | <b>(373)</b>           | <b>(52)</b>       | <b>(425)</b> |
| Amortisation charged in the year          | (25)                   | -                 | (25)         |
| Disposals                                 | -                      | -                 | -            |
| <b>At 31 March</b>                        | <b>(398)</b>           | <b>(52)</b>       | <b>(450)</b> |
| <b>Carrying Value as at 31 March 2022</b> | <b>120</b>             | <b>-</b>          | <b>120</b>   |
| Carrying Value as at 31 March 2021        | 124                    | -                 | 124          |

| 2020/21                                   | Information Technology | Software Licences | Total        |
|---|------------------------|-------------------|--------------|
|   | £000                   | £000              | £000         |
| <b>Cost or valuation at 1 April</b>       | <b>497</b>             | <b>52</b>         | <b>549</b>   |
| Additions                                 | -                      | -                 | -            |
| Disposals                                 | -                      | -                 | -            |
| <b>At 31 March</b>                        | <b>497</b>             | <b>52</b>         | <b>549</b>   |
| <b>Amortisation as at 1 April</b>         | <b>(349)</b>           | <b>(52)</b>       | <b>(401)</b> |
| Amortisation charged in the year          | (24)                   | -                 | (24)         |
| Disposals                                 | -                      | -                 | -            |
| <b>At 31 March</b>                        | <b>(373)</b>           | <b>(52)</b>       | <b>(425)</b> |
| <b>Carrying Value as at 31 March 2021</b> | <b>124</b>             | <b>-</b>          | <b>124</b>   |
| Carrying Value as at 31 March 2020        | 148                    | -                 | 148          |

In the opinion of the Public Services Ombudsman for Wales there is no material difference between the net book value of assets at current values and at their historic cost.

## 7. Trade and other Receivables

|   | 2021/22    | 2020/21    |
|---|------------|------------|
|   | £000       | £000       |
| <b>Amounts falling due within 1 year</b>          |            |            |
| Prepayments                                       | 255        | 228        |
| Trade debtors                                     | -          | -          |
| <b>Amounts falling due after more than 1 year</b> |            |            |
| Prepayments                                       | -          | 1          |
| <b>Total</b>                                      | <b>255</b> | <b>229</b> |

## 8. Cash and Cash Equivalents

Any bank balance held at the year-end must be returned to the Welsh Consolidated Fund under the Government of Wales Act 2006.

A figure of £120k (£20k in 2020/21) has been included within the accounts, being the net balance at the year-end on all the bank accounts operated by the Public Services Ombudsman for Wales, irrespective of whether the individual account is in debit or credit.

The £120k balance due to be returned to the Welsh Consolidated Fund in 2022/23 is made up of a cash balance at the year-end of £35k, as well as an unused contingency sum of £85k which was made available to manage the risk of a late pay award settlement in March 2022.

## 9. Trade Payables and other Current Liabilities

|  | 2021/22    | 2020/21    |
|--|------------|------------|
|  | £000       | £000       |
| <b>Amounts falling due in 1 year</b>           |            |            |
| Untaken annual leave                           | 122        | 175        |
| Deferred rent reduction                        | 5          | 5          |
| Welsh Consolidated Fund - unspent balances     | 120        | 20         |
| Trade payables                                 | 3          | 5          |
| Accruals                                       | 47         | 45         |
|  | 297        | 250        |
| <b>Amounts falling due in more than 1 year</b> |            |            |
| Deferred rent reduction                        | 10         | 15         |
| <b>Total</b>                                   | <b>307</b> | <b>265</b> |

## 10. Provisions for Liabilities and Charges

|                                 | 2021/22                                 |                       |                |            | 2020/21    |
|---------------------------------|---|-----------------------|----------------|------------|------------|
|                                 | Pensions<br>for Former<br>Commissioners | Dilapidation<br>Costs | Other<br>Costs | Total      | Total      |
|                                 | £000                                    | £000                  | £000           | £000       | £000       |
| Balance at 1 April              | 210                                     | 306                   | -              | 516        | 526        |
| Additional provision required   | 37                                      | 17                    | -              | 54         | 31         |
| Discount rate movement          | 2                                       | -                     | -              | 2          | 3          |
| Provisions utilised in the year | (45)                                    | -                     | -              | (45)       | (44)       |
| <b>Balance at 31 March</b>      | <b>204</b>                              | <b>323</b>            | <b>-</b>       | <b>527</b> | <b>516</b> |

Analysis of expected timings of payment of provisions:

|                                 | 2021/22    | 2020/21    |
|---------------------------------|------------|------------|
|                                 | £000       | £000       |
| Payable within 1 year           | 46         | 45         |
| Payable within 2 to 5 years     | 474        | 455        |
| Payable in more than 5 years    | 7          | 16         |
| <b>Balance at 31 March 2022</b> | <b>527</b> | <b>516</b> |

Pension provisions are calculated based on the National Life Tables for England and Wales issued by the Office of National Statistics. Later year pension increases are in line with GDP deflator information issued by HM Treasury. The discount factor has been amended to -1.30% for the financial year (-0.95% in 2020/21) in line with the guidance issued by the Treasury. Two surviving spouses of former Commissioners remain as a pension liability.

## 11.Reconciliation of Operating Cost to Operating Cash Flows

|  | Notes | 2021/22        | 2020/21        |
|--|-------|----------------|----------------|
|  |       | £000           | £000           |
| <b>Net operating cost</b>                          |       | <b>(5,077)</b> | <b>(4,164)</b> |
| Adjust for non-cash items                          | 3     | 61             | 61             |
| Decrease/(Increase) in trade and other receivables | 7     | (26)           | (21)           |
| Increase/(Decrease) in trade and other payables    | 9     | 42             | 35             |
| Movement in provisions                             | 10    | 11             | (10)           |
| Movement in cash repaid to Welsh Consolidated Fund | 8     | (100)          | 28             |
| <b>Net cash outflow from operating activities</b>  |       | <b>(5,089)</b> | <b>(4,071)</b> |

## 12.Non-Current Asset Expenditure and Financial Investment

|  | 2021/22     | 2020/21    |
|--|-------------|------------|
|  | £000        | £000       |
| Purchases of property, plant and equipment             | (16)        | (5)        |
| Proceeds of disposals of property, plant and equipment | -           | -          |
| Purchases of intangible assets                         | (21)        | -          |
| <b>Net cash outflow from investing activities</b>      | <b>(37)</b> | <b>(5)</b> |

### 13. Reconciliation of Net Cash Requirement to Increase/ (Decrease) in Cash

|   | 2021/22        | 2020/21        |
|---|----------------|----------------|
|   | £000           | £000           |
| Net Cash Requirement:                                   |                |                |
| Operating activities                                    | (5,089)        | (4,071)        |
| Capital Expenditure                                     | (37)           | (5)            |
|   | <b>(5,126)</b> | <b>(4,076)</b> |
| Financing from Welsh Parliament                         | 5,246          | 4,096          |
| Repayment to Welsh Consolidated Fund                    | (20)           | (48)           |
| <b>Increase/(Decrease) in cash and cash equivalents</b> | <b>100</b>     | <b>(28)</b>    |

### 14. Commitments under Operating Leases

|  | 2021/22    | 2020/21    |
|--|------------|------------|
|  | £000       | £000       |
| Total future minimum operating lease payments on building: |            |            |
| Payable within 1 year                                      | 198        | 198        |
| Within 2 and 5 years                                       | 502        | 699        |
| More than 5 years  | -          | -          |
|  | <b>700</b> | <b>897</b> |
| Other:   |            |            |
| Payable within 1 year                                      | -          | -          |
| Within 2 and 5 years                                       | -          | -          |
| More than 5 years  | -          | -          |
|  | -          | -          |
| <b>Total of all operating leases</b>                       | <b>700</b> | <b>897</b> |

## **15. Contingent Liabilities**

There are no claims or litigations that would affect the financial statements themselves but there is one Code of Conduct case where leave to appeal has been sought. The outcome is uncertain and the amount of any potential liability is unknown.

## **16. Capital Commitments**

There were no capital commitments at 31 March 2022 (2020/21 Nil).

## **17. Related Party Transactions**

The PSOW is headed by the Public Services Ombudsman for Wales. The office was established under the Public Services Ombudsman (Wales) Act 2005 and is now governed by the Public Services Ombudsman (Wales) Act 2019. The Ombudsman is independent of Government and the funding arrangements of the Office are set up to ensure that the independence of the Office is secured. The PSOW has had a number of material transactions with the Welsh Parliament, HM Revenue and Customs (Tax and National Insurance) and the Cabinet Office (payments in respect of the Principal Civil Service Pension Scheme). During the year, no directors, key members of staff or their close relatives have undertaken any material transactions.

## **18. Events after the Reporting Period**

None.

## **19. Special Payments**

One payment totalling £29k was made to a member of staff who left PSOW's employment during the year.



# Pension Disclosures

One pension scheme was operated on behalf of current staff during 2021/22 – The Principal Civil Service Pension Scheme (PCSPS). There also remains an ongoing liability to meet the unfunded pensions of two dependant relatives of former Local Government Commissioners.

## Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: 3 providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 switched into alpha sometime between 1 June 2015 and 1 February 2022. Because the Government plans to remove discrimination identified by the courts in the way that the 2015 pension reforms were introduced for some members, it is expected that, in due course, eligible members with relevant service between 1 April 2015 and 31 March 2022 may be entitled to different pension benefits in relation to that period (and this may affect the Cash Equivalent Transfer Values shown in this report – see below). All members who switched to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a defined contribution (money purchase) pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% for members of classic, premium, classic plus, nuvos and alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is an occupational defined contribution pension arrangement which is part of the Legal & General Mastertrust. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member). The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.)

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk).

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent

spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## **Real Increase in CETV**

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## **Compensation for loss of office**

No staff left under Voluntary Exit or Voluntary Redundancy terms during the financial year.

## **Pensions for former Ombudsmen**

With the agreement of the Secretary of State for Wales in 1991 and subsequent confirmation by Statutory Instrument 1993 No. 1367, Local Government Commissioners became eligible to join the Local Government Pension Scheme. However, the pensions of the three previous Local Government Commissioners remained the responsibility of the Public Services Ombudsman for Wales and are met through the Statement of Comprehensive Net Expenditure. At 31 March 2022 two surviving spouses of former Commissioners continued to receive a pension.

Pensions are increased annually in line with other pension schemes within the Public Sector. The basis of calculations of the Annual Pensions Increase has been changed from using the annual movement based on the Retail Price Index (RPI) to the Consumer Price Index (CPI). The amount of the uplift applied is normally set out in the Statutory Instrument Pensions Increase (Review) Order. This uplift for 2021/22 was 0.50%.

The total payments during 2021/21 were £45k (£44k in 2020/21). The liabilities arising out of the obligation to finance these pensions together with any dependant pensions has been calculated to be £204k (£209k in 2020/21). The calculation to determine the overall liability has been carried out internally using life expectancy tables for males and females in Wales obtained from the website of the Government Actuary's Department. A discount rate, from PES (2021), of -1.30% (-0.95% in 2020/21) has been applied in accordance with the Treasury guidance that all pension liabilities should be discounted.



**Public Services Ombudsman for Wales**

**1 Ffordd yr Hen Gae**

**Pencoed**

**CF35 5LJ**


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Ask for: Communications

 01656 641150

Date: August 2022

 communications@ombudsman.wales

Cllr. Mary Ann Brocklesby  
Monmouthshire County Council  
By Email only: maryannbrocklesby@monmouthshire.gov.uk

## Annual Letter 2021/22

Dear Councillor Brocklesby

I am pleased to provide you with the Annual letter (2021/22) for Monmouthshire County Council which deals with complaints relating to maladministration and service failure, complaints relating to alleged breaches of the Code of Conduct for Councillors and the actions being taken to improve public services

This is my first annual letter since taking up the role of Public Services Ombudsman in April 2022, and I appreciate that the effects of the pandemic are still being felt by all public bodies in Wales. Our office has not been immune from this, with records numbers of cases being referred to us over the last two years. The strong working relationships between my Office and local authorities continues to deliver improvements in how we are dealing with complaints and ensuring that, when things go wrong, we are learning from that and building stronger public services.

## Complaints relating to Maladministration & Service Failure

Last year the number of complaints referred to us regarding Local Authorities increased by 47% (compared to 20/21 figures) and are now well above pre-pandemic levels. It is likely that complaints to my office, and public services in general, were suppressed during the pandemic, and we are now starting to see the expected 'rebound' effect.

During this period, we intervened in (upheld, settled or resolved at an early stage) a similar proportion of complaints about public bodies, 18%, when compared with recent years. Intervention rates (where we have investigated complaints) for Local Authorities also remained at a similar level – 14% compared to 13% in recent years.

Page 1 of 9

## **Complaints relating to the Code of Conduct for Councillors**

We also received a high number of Code of Conduct complaints last year, relating to both Principal Councils and Town and Community Councils. A record number (20) were referred to either the Adjudication Panel for Wales or local standards committees, due to evidence of a breach of the Code.

## **Supporting improvement of public services**

In addition to managing record levels of complaints, we also continued our work using our proactive powers in the Public Services Ombudsman (Wales) Act 2019. Specifically undertaking our first Own Initiative Investigation and continuing our work on the Complaints Standards Authority.

October 2021 saw the publication of the first own initiative investigation in Wales: [Homelessness Reviewed](#). The investigation featured three Local Authorities and sought to scrutinise the way Homelessness assessments were conducted. The report made specific recommendations to the investigated authorities, as well as suggestions to all other Local Authorities in Wales and Welsh Government. Some of these recommendations will bring about immediate change – updating factsheets and letter and assessment templates to ensure that key equality and human rights considerations are routinely embedded into processes for example – all the recommendations were designed to bring about tangible change to people using homelessness services in Wales.

The Complaints Standards Authority (CSA) continued its work with public bodies in Wales last year. The model complaints policy has already been adopted by local authorities and health boards in Wales, we have now extended this to an initial tranche of Housing Associations and Natural Resources Wales. The aim being to implement this work across the Welsh public sector.

In addition to this, the CSA published information on complaints handled by local authorities for the [first time](#) – a key achievement for this work. The data for 21/22 showed:

- Over 15,000 complaints were recorded by Local Authorities
- 4.88 for every 1000 residents.
- Nearly half (46%) of those complaints were upheld.
- About 75% were investigated within 20 working days.
- About 8% of all complaints closed ended up being referred to PSOW.

The CSA has now implemented a model complaints policy with nearly 50 public bodies, and delivered 140 training sessions, completely free of charge, during the last financial year. The feedback has been excellent, and the training has been very popular - so I would encourage Monmouthshire County Council to engage as fully as possible.



## **Complaints made to the Ombudsman**

A summary of the complaints of maladministration/service failure received relating to your Council is attached, along with a summary of the Code of Conduct complaints relating to members of the Council and the Town & Community Councils in your area.

In light of the new duties on political leaders and standards committees to promote and maintain high standards of conduct of their members, we look forward to working with you, your Monitoring Officer and standards committees to share any learning from the complaints we receive and to support your authority's work.

I would also welcome feedback on your Governance & Audit Committee's review of your authority's ability to handle complaints effectively so that we can take this into account in our work and support its work on the handling of complaints.

Finally, can I thank you and your officials for the positive way that local authorities have engaged with my Office to enable us to deliver these achievements during what has been a challenging year for everyone. I very much look forward to continuing this work and collaboration to ensure we further improve public services across Wales.

Further to this letter can I ask that your Council takes the following actions:

- Present my Annual Letter to the Cabinet and to the Governance & Audit Committee to assist members in their scrutiny of the Council's performance and share any feedback from the Cabinet and the Governance & Audit Committee with my office.
- Continue to engage with our Complaints Standards work, accessing training for your staff, fully implementing the model policy, and providing complaints data.
- Inform me of the outcome of the Council's considerations and proposed actions on the above matters by 30 September.

This correspondence is copied to the Chief Executive of your Council and to your Contact Officer. Finally, a copy of all Annual Letters will be published on my website.

Yours sincerely,



**Michelle Morris**

**Public Services Ombudsman**

cc. Paul Matthews, Chief Executive, Monmouthshire County Council.

By Email only: paulmatthews@monmouthshire.gov.uk

## Factsheet

### Appendix A - Complaints Received

| Local Authority                          | Complaints Received | Received per 1000 residents |
|--|---------------------|-----------------------------|
| Blaenau Gwent County Borough Council     | 14                  | 0.20                        |
| Bridgend County Borough Council          | 55                  | 0.37                        |
| Caerphilly County Borough Council        | 60                  | 0.33                        |
| Cardiff Council*                         | 182                 | 0.50                        |
| Carmarthenshire County Council           | 54                  | 0.29                        |
| Ceredigion County Council                | 52                  | 0.72                        |
| Conwy County Borough Council             | 27                  | 0.23                        |
| Denbighshire County Council              | 34                  | 0.36                        |
| Flintshire County Council                | 99                  | 0.63                        |
| Gwynedd Council                          | 39                  | 0.31                        |
| Isle of Anglesey County Council          | 29                  | 0.41                        |
| Merthyr Tydfil County Borough Council    | 27                  | 0.45                        |
| Monmouthshire County Council             | 20                  | 0.21                        |
| Neath Port Talbot Council                | 45                  | 0.31                        |
| Newport City Council                     | 40                  | 0.26                        |
| Pembrokeshire County Council             | 39                  | 0.31                        |
| Powys County Council                     | 55                  | 0.42                        |
| Rhondda Cynon Taf County Borough Council | 51                  | 0.21                        |
| Swansea Council                          | 71                  | 0.29                        |
| Torfaen County Borough Council           | 18                  | 0.19                        |
| Vale of Glamorgan Council                | 61                  | 0.46                        |
| Wrexham County Borough Council           | 71                  | 0.52                        |
| <b>Total</b>                             | <b>1143</b>         | <b>0.36</b>                 |

\* inc 17 Rent Smart Wales

## Appendix B - Received by Subject

| <b>Monmouthshire County Council</b>          | <b>Complaints Received</b> | <b>% Share</b> |
|--|----------------------------|----------------|
| Adult Social Services                        | 1                          | 5%             |
| Benefits Administration                      | 0                          | 0%             |
| Children's Social Services                   | 6                          | 30%            |
| Community Facilities, Recreation and Leisure | 0                          | 0%             |
| Complaints Handling                          | 3                          | 15%            |
| Covid19                                      | 0                          | 0%             |
| Education                                    | 0                          | 0%             |
| Environment and Environmental Health         | 2                          | 10%            |
| Finance and Taxation                         | 1                          | 5%             |
| Housing                                      | 1                          | 5%             |
| Licensing                                    | 0                          | 0%             |
| Planning and Building Control                | 6                          | 30%            |
| Roads and Transport                          | 0                          | 0%             |
| Various Other                                | 0                          | 0%             |
| <b>Total</b>                                 | <b>20</b>                  |                |

## Appendix C - Complaint Outcomes (\* denotes intervention)

| County/County Borough Councils | Out of Jurisdiction | Premature | Other cases closed after initial consideration | Early Resolution/ voluntary settlement* | Discontinued | Other Reports- Not Upheld | Other Reports Upheld* | Public Interest Report* | Total |
|--------------------------------|---------------------|-----------|--|---|--------------|---------------------------|-----------------------|-------------------------|-------|
| Monmouthshire County Council   | 5                   | 10        | 4  | 2                                       | 0            | 0                         | 0                     | 0                       | 21    |
| % Share                        | 24%                 | 48%       | 19%  | 10%                                     | 0%           | 0%                        | 0%                    | 0%                      |       |

## Appendix D - Cases with PSOW Intervention

|  | No. of interventions | No. of closures | % of interventions |
|--|----------------------|-----------------|--------------------|
| Blaenau Gwent County Borough Council     | 0                    | 13              | 0%                 |
| Bridgend County Borough Council          | 7                    | 54              | 13%                |
| Caerphilly County Borough Council        | 7                    | 58              | 12%                |
| Cardiff Council                          | 45                   | 159             | 28%                |
| Cardiff Council - Rent Smart Wales       | 1                    | 16              | 6%                 |
| Carmarthenshire County Council           | 7                    | 49              | 14%                |
| Ceredigion County Council                | 13                   | 46              | 28%                |
| Conwy County Borough Council             | 2                    | 24              | 8%                 |
| Denbighshire County Council              | 4                    | 33              | 12%                |
| Flintshire County Council                | 15                   | 94              | 16%                |
| Gwynedd Council                          | 6                    | 41              | 15%                |
| Isle of Anglesey County Council          | 3                    | 28              | 11%                |
| Merthyr Tydfil County Borough Council    | 2                    | 26              | 8%                 |
| Monmouthshire County Council             | 2                    | 21              | 10%                |
| Neath Port Talbot Council                | 5                    | 45              | 11%                |
| Newport City Council                     | 4                    | 36              | 11%                |
| Pembrokeshire County Council             | 2                    | 40              | 5%                 |
| Powys County Council                     | 7                    | 55              | 13%                |
| Rhondda Cynon Taf County Borough Council | 3                    | 45              | 7%                 |
| Swansea Council                          | 10                   | 76              | 13%                |
| Torfaen County Borough Council           | 2                    | 20              | 10%                |
| Vale of Glamorgan Council                | 9                    | 62              | 15%                |
| Wrexham County Borough Council           | 4                    | 67              | 6%                 |
| <b>Total</b>                             | <b>160</b>           | <b>1108</b>     | <b>14%</b>         |

## Appendix E - Code of Conduct Complaints

| County/County Borough Councils | Discontinued | No evidence of breach | No action necessary | Refer to Adjudication Panel | Refer to Standards Committee | Withdrawn | Total |
|--------------------------------|--------------|-----------------------|---------------------|-----------------------------|------------------------------|-----------|-------|
| Monmouthshire County Council   | 0            | 2                     | 0                   | 0                           | 0                            | 0         | 2     |

## Appendix F - Town/Community Council Code of Complaints

| Town/Community Council     | Discontinued | No evidence of breach | No action necessary | Refer to Adjudication Panel | Refer to Standards Committee | Withdrawn | Total |
|----------------------------|--------------|-----------------------|---------------------|-----------------------------|------------------------------|-----------|-------|
| Caerwent Community Council | -            | -                     | -                   | -                           | -                            | -         | 0     |

## Information Sheet

Appendix A shows the number of complaints received by PSOW for all Local Authorities in 2021/2022. These complaints are contextualised by the number of people each health board reportedly serves.

Appendix B shows the categorisation of each complaint received, and what proportion of received complaints represents for the Local Authority.

Appendix C shows outcomes of the complaints which PSOW closed for the Local Authority in 2021/2022. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix D shows Intervention Rates for all Local Authorities in 2021/2022. An intervention is categorised by either an upheld complaint (either public interest or non-public interest), an early resolution, or a voluntary settlement.

Appendix E shows the outcomes of Code Of Conduct complaints closed by PSOW related to Local Authority in 2021/2022. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix F shows the outcomes of Code of Conduct complaints closed by PSOW related to Town and Community Councils in the Local Authority's area. This table shows both the volume, and the proportion that each outcome represents for each Town or Community Council.

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# Adjudication Panel for Wales Annual Report

Year 2021 – 2022

PDC / APW

# Contents

|                  |                          |    |
|------------------|--------------------------|----|
| <b>Foreword</b>  |                          | 3  |
| <b>Section 1</b> | About Us                 | 4  |
| <b>Section 2</b> | Performance and Progress | 8  |
| <b>Section 3</b> | Case Summaries           | 12 |
| <b>Section 4</b> | Business Priorities      | 17 |
| <b>Section 5</b> | Expenditure              | 18 |

# Foreword

This is my seventh report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2021 – 31 March 2022.

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 financial year has seen the APW deal with an unusually high number of cases. It is not clear whether this is connected to the impact of the COVID-19 pandemic, the election cycle or simply a natural fluctuation. There is no common theme to be drawn from the cases heard. This year has seen all types of councillors appearing before the APW, ranging from leaders of councils to members of community councils. Given the new duties imposed on leaders of parties in local government concerning standards in public life, it is to be expected that matters will improve. I remain of the view that a good year for standards is when the APW is quiet.

At the time of writing this foreword, the 2022 local government elections have just taken place. Whilst congratulating those who have been elected to their important public service role, I also encourage councillors to take advantage of the Code of Conduct training they will be offered by monitoring officers and others and to review the guidance issued by the Public Services Ombudsman for Wales. Such training is designed to help and support councillors to carry out their work for their community in accordance with the Code and to avoid ever having to appear before either the standards committee or the APW.

Finally, I note the recommendations of the Penn review and its proposals for changes to the APW's powers and procedures. I look forward to working with the Welsh Government as it considers its position in relation to the report it commissioned and its implementation. I am conscious that the Welsh Tribunals as a whole face a time of significant change, following the Law Commission report on Welsh justice, but am confident the APW will continue to deliver fair decisions to ensure compliance with the Code while protecting the enhanced freedom of expression for those engaged with politics.

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.

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

# Section 1 – About Us

In this section:

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

## Basis for the APW

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

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

## The APW's Function

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

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

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

## The APW's Regulations

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

APW's procedures are governed by the following legislation:

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

## The APW's Process

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

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

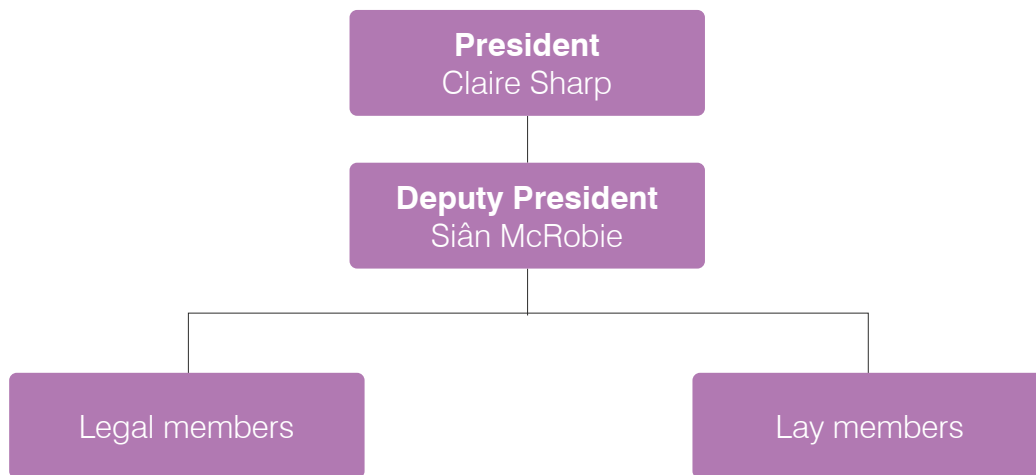
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

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

## Members of the APW

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

|                         |  |
|-------------------------|--|
| <b>President</b>        | The President has judicial responsibility for the APW and its members.   |
| <b>Deputy President</b> | The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently.   |
| <b>Legal Members</b>    | Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the 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 **5 May 2021**, with a continued emphasis on judgecraft; together with case law updates and a session on credibility of witnesses and fact-finding.

## 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

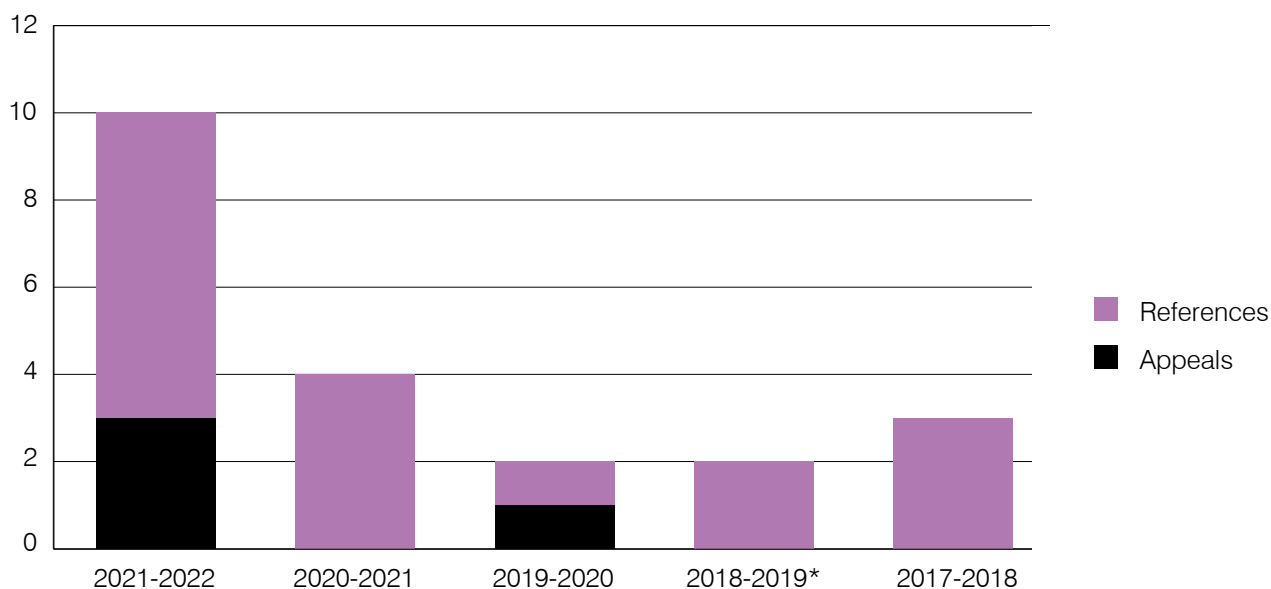
### Numbers and Statistics

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 2017-March 2022



\* 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 2017-March 2022

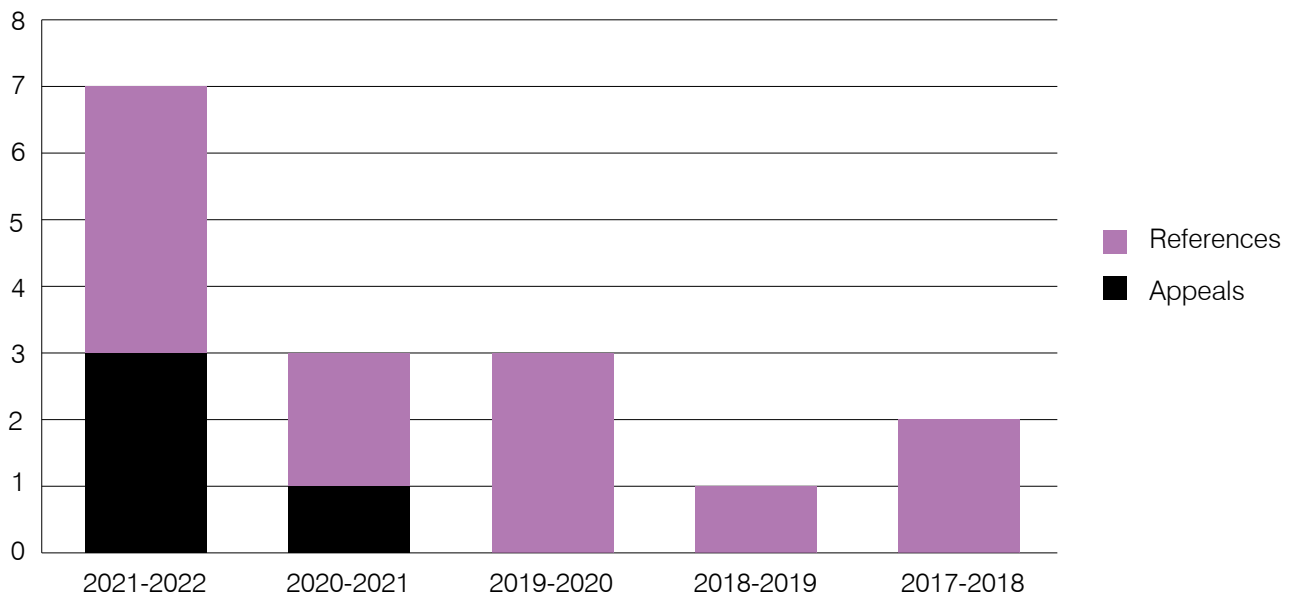
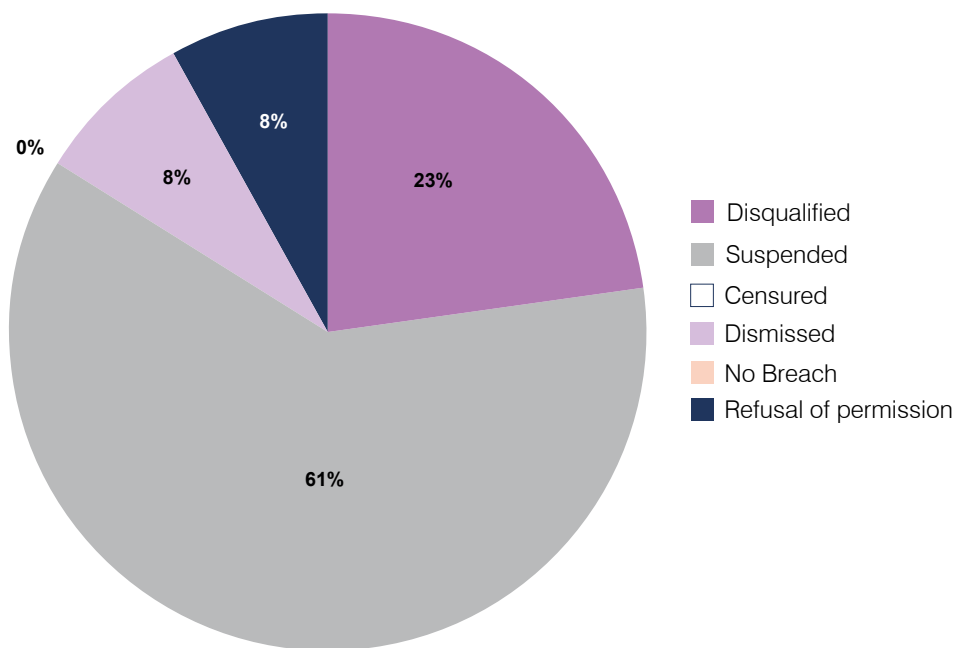
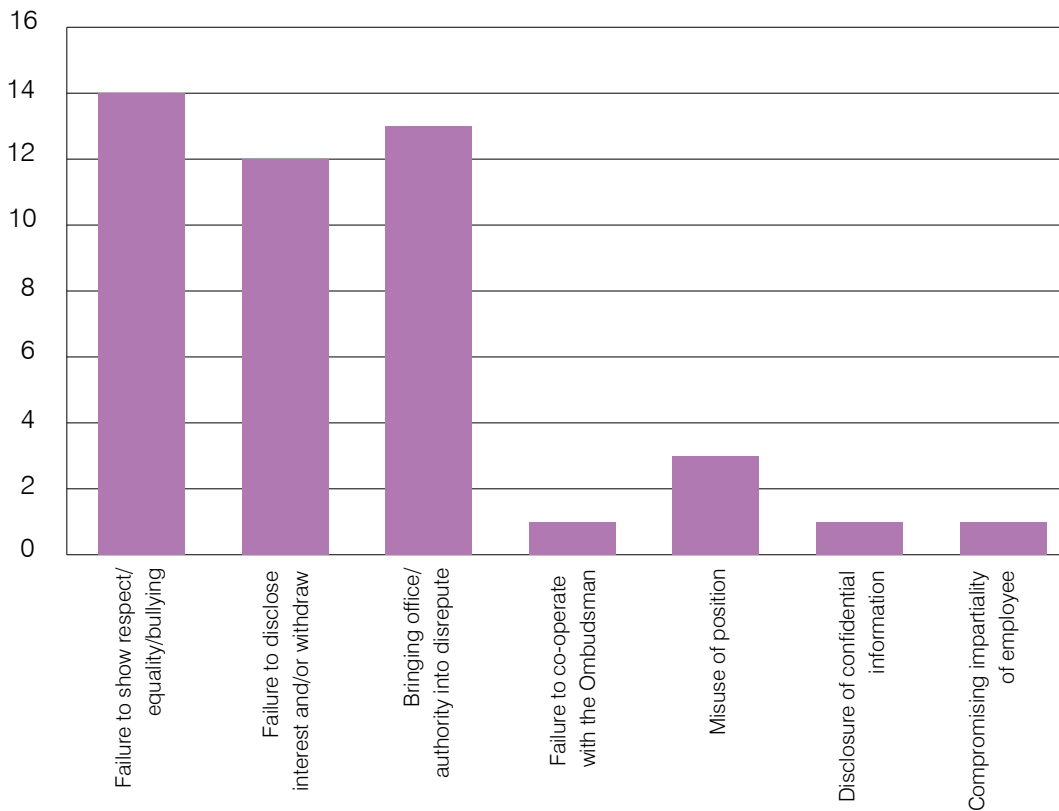


Chart 2.3: Outcomes of references and appeals April 2017- March 2022

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 2017-March 2022



### Hearings data

During 2021-2022:

| Type      | Length (in days) |
|-----------|------------------|
| Reference | 8 hearing days   |
| Appeal    | 2 hearing day    |

6 listing conferences took place in relation to these cases.

### Onward appeals

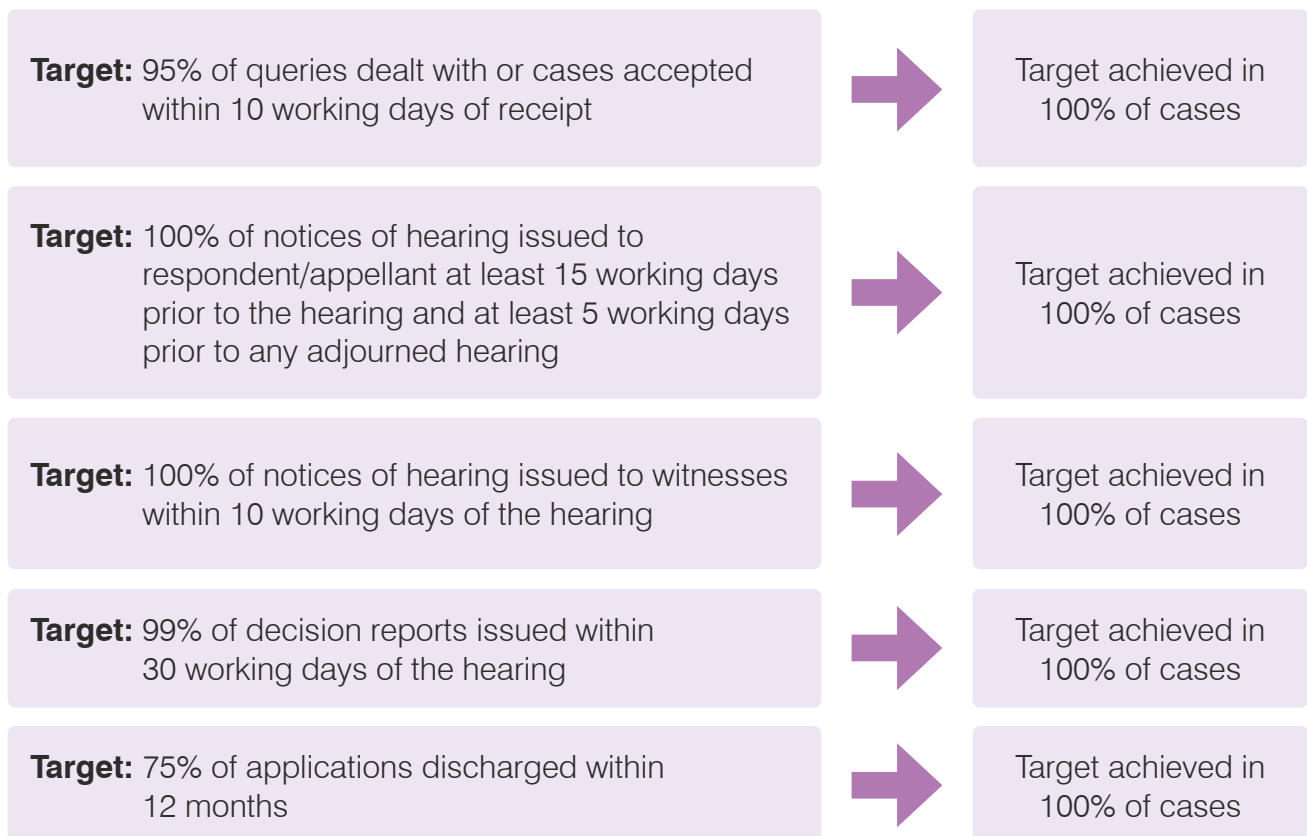
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

## 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 2021-2022



## Complaints

The APW received and concluded 1 formal complaint during the reporting period.

## Section 3 – Case summaries

In this section:

- References
- Appeals

### References

During the reporting period, **4 case tribunals** took place resulting from a reference from the Ombudsman. A summary of the cases determined by the APW appears below:

APW/003/2020-021/CT

Caerphilly County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Caerphilly County Borough Council by conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, failing to disclose a personal interest in council business when attending a meeting or making written representations, and failing to withdraw from a meeting in respect of a matter in which he had a prejudicial interest (without obtaining a dispensation).

The councillor was Leader of the Council. In that role, he attended meetings of a City Deal Regional Cabinet, a joint working arrangement between 10 Councils. The councillor was also a director of an investment vehicle company. Having seen a confidential report, the councillor invested personally in a company affected by the contents of that report. When the councillor attempted to amend his register of interests a few months later to reflect his investment, he was advised by a senior officer this was not necessary; he then did not declare his interest at a later City Deal meeting, but did so on further occasions and left those meetings.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the Code of Conduct for Caerphilly County Borough Council 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)).

The Case Tribunal unanimously concluded that the councillor was to be suspended from acting as a member of a relevant authority in respect of his breaches of paragraphs 6 and 7 of the Code for a period of five months and in respect of his breaches of paragraphs 11 and 14 of the code a period of two months concurrently. In addition, it recommended that the Monitoring Officer re-emphasised the requirement for members to register interests as/when they arise and that the duty does not arise annually.

APW/001/2021-022/CT

Taff's Well and Nantgarw Community Council, Rhondda Cynon Taf County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Taff's Well and Nantgarw Community Council by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, and failing to observe the law and the authority's rules governing the claiming of expenses and allowances.

The councillor was a member of a community council and required additional support to carry out his role due to his disabilities. He sought payment of expenses that he said were required to enable him to carry out his role, but the clerk to the Council refused the applications on the basis that she was not satisfied with the evidence provided. This led to a series of emails in which the councillor questioned the clerk's qualifications, doubted the justification for her salary, demeaned the work that she undertook and ultimately referred to her as part of an **"axis of evil"** that was bullying him. When the Chair became involved, the councillor sent abusive emails to him. During the PSOW's investigation, the councillor interfered with the evidence of a witness and wrote a letter (ostensibly from the witness) seeking to resile from the evidence given to the ombudsman.

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

- You must show respect and consideration for others (paragraph 4(b));
- You must not use bullying behaviour or harass any person (paragraph 4c);
- 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));
- You must (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member (paragraph 9(a)).

The Case Tribunal unanimously concluded that the councillor was to be disqualified from acting as a member of a relevant authority for a period of 12 months.

APW/005/2021-022/CT

Abertillery and Llanhillieth Community Council, Blaenau Gwent County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Abertillery and Llanhillieth Community Council by failing to carry out his duties with due regard to equality of opportunity for all, by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, and by failing to comply with the requests of the PSOW during his investigation.

The councillor was a member of a community council, as was another councillor who had a hearing impairment. The accused councillor was overtly rude to his colleague about her disability on more than one occasion and tried to make it hard for her to participate in meetings. In addition, during the PSOW's investigation the accused councillor was found to have failed to engage or co-operate with the investigation (including failing to answer written questions) and this was not due to his health as asserted.

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

- You must carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion (paragraph 4(a));
- You must show respect and consideration for others (paragraph 4(b));
- You must not use bullying behaviour or harass any person (paragraph 4c);
- 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 comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers (paragraph 6(2)).

The Case Tribunal unanimously concluded that the councillor was to be suspended for a period of ten months from acting as a member of a relevant authority. It further recommended that the accused councillor undertook further training on the Code of Conduct and Equality and Diversity, and provided a full written apology to his colleague in respect of his breaches of the Code towards her.

APW/006/2021-022/CT

Caernarfon Royal Town Council and Gwynedd Council

The allegations were that the councillor had breached the Code of Conduct for Caernarfon Royal Town Council and Gwynedd Council by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, and failing to co-operate with the PSOW's investigation.

The councillor was unhappy about the activities of a colleague during the COVID-19 pandemic. He posted comments on Facebook to denigrate him and to suggest his parents received free meals, was found to have assaulted a third party when that individual was out leafletting with the other councillor, and repeatedly threatened and claimed to have issued court proceedings for compensation and/or injunctive relief and/or a harassment complaint with the Police against the councillor to whom he objected. During the PSOW's investigation, the councillor was found to have failed to engage. While the accused councillor asserted that he was unwell, no medical evidence was provided either to the APW or the PSOW.

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

- You must show respect and consideration for others (paragraph 4(b));
- You must not use bullying behaviour or harass any person (paragraph 4c);
- 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 comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers (paragraph 6(2));
- 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)).

The Case Tribunal unanimously concluded that the councillor was to be suspended from acting as a member of a relevant authority for a period of nine months.

## Appeals

During the reporting period, 2 appeal tribunals took place arising from a decision made by a local government standards committee. In addition, permission to appeal was refused by the President in respect of one appeal.

A summary of the cases determined by the APW appears below:

### APW/002/2021-022/AT Denbighshire County Council

An appeal was received against the determination of the standards committee that the councillor had breached Denbighshire County Council's Code of Conduct and should be suspended from office for 2 months.

The proceedings arose from the councillor's decision to become involved in a personal dispute between a constituent and another individual in a car park. The councillor decided to investigate and attempt to view the CCTV, and visited the individual's workplace and spoke to her colleagues about the matter. He later wrote a letter of complaint to the individual's employer about the incident in the car park.

The standards committee found that the councillor had breached the Code of Conduct in respect of the following paragraphs:

- You must not use bullying behaviour or harass any person (paragraph 4c);
- 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)).

Permission to appeal was given by the President only in respect of the issue as to whether the actions of the councillor constituted harassment and whether the sanction imposed should be reviewed. The Appeal Tribunal by unanimous decision found that the actions of the councillor did constitute a course of harassment, that this was a breach of the Code, and endorsed the two month suspension sanction imposed by the standards committee.

An appeal was received against the determination of the standards committee that the councillor had breached Wrexham Council's Code of Conduct and should be suspended from office for three months.

The proceedings arose from the councillor's decision to complain about a member of a public to her employer (and copied into the relevant regulator) because she had complained about him to the PSOW.

The standards committee found that the councillor had breached the Code of Conduct in respect of the following paragraphs:

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

Permission to appeal was given by the President as whether the sanction imposed should be reviewed; the councillor in part relied upon the two-month suspension given by Denbighshire County Council's standards committee for similar conduct. The Appeal Tribunal by unanimous decision found that the sanction should be reviewed and recommended that a two-month suspension should be considered by the standards committee. On referral back to the standards committee, it declined to change the sanction and the suspension of three months came into effect.



## 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;
- Pandemic permitting, return as appropriate to “face to face” hearings and attend key outreach events;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, action any changes as required by the legislature.

## Section 5 – Expenditure

In this section:

- Expenditure for 2021-2022

### Expenditure for 2021-2022

| Content  | Amount         |
|--|----------------|
| Members Fees and Expenses (proceedings and training) | £41,370        |
| Tribunal events (hearing and other costs)            | £7,780         |
| <b>Total</b>   | <b>£49,151</b> |

Rounded to the nearest £1