



Adjudication Panel for Wales Annual Report

Year 2021 – 2022

PDC / APW

PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

Contents

Foreword		3
Section 1	About Us	4
Section 2	Performance and Progress	8
Section 3	Case Summaries	12
Section 4	Business Priorities	17
Section 5	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.

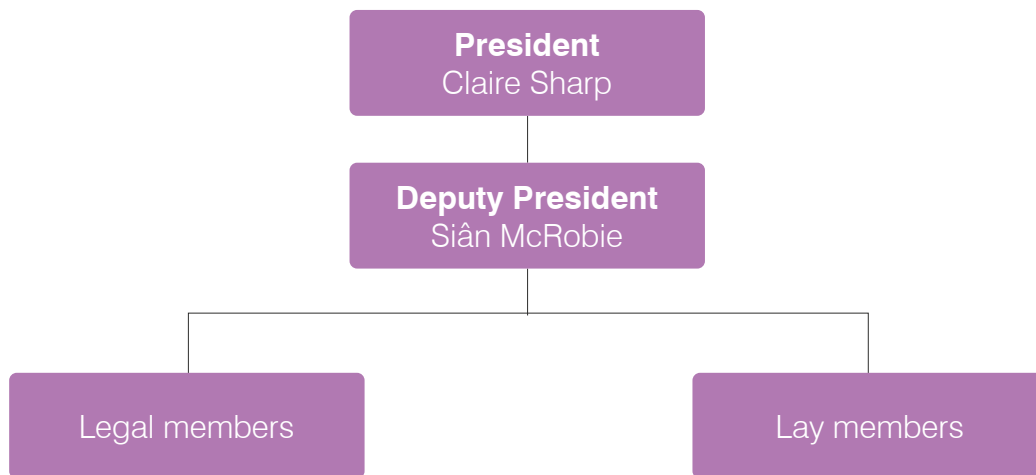
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

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.

President	The President has judicial responsibility for the APW and its members.
Deputy President	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.
Legal Members	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.
Lay Members	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
Administration	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

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

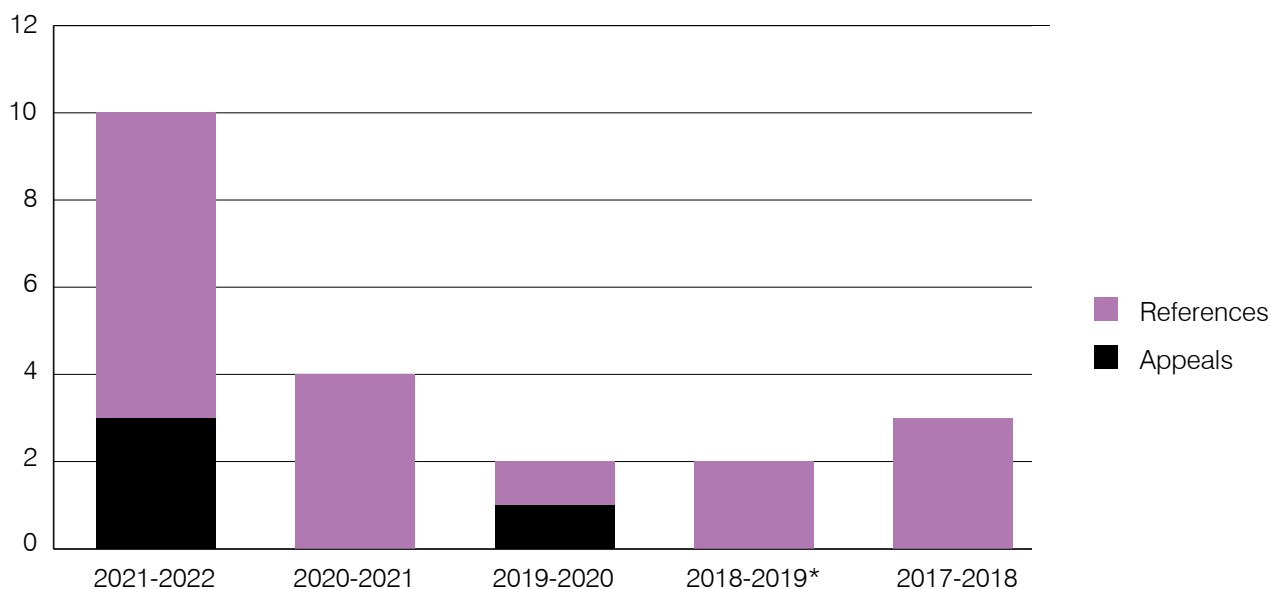
Numbers and Statistics

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

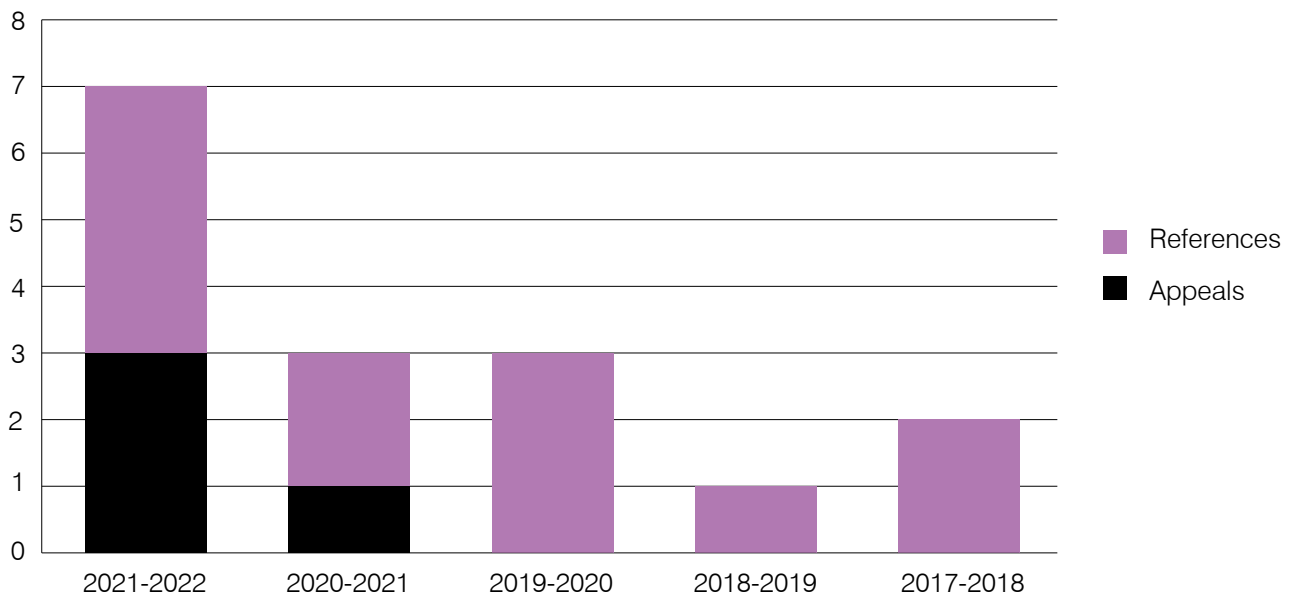
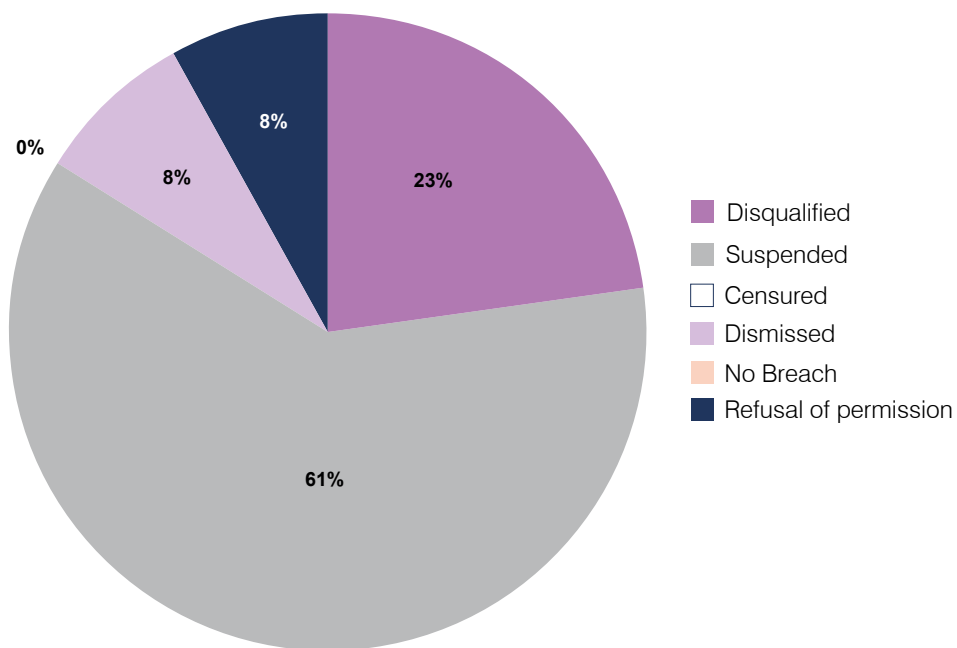
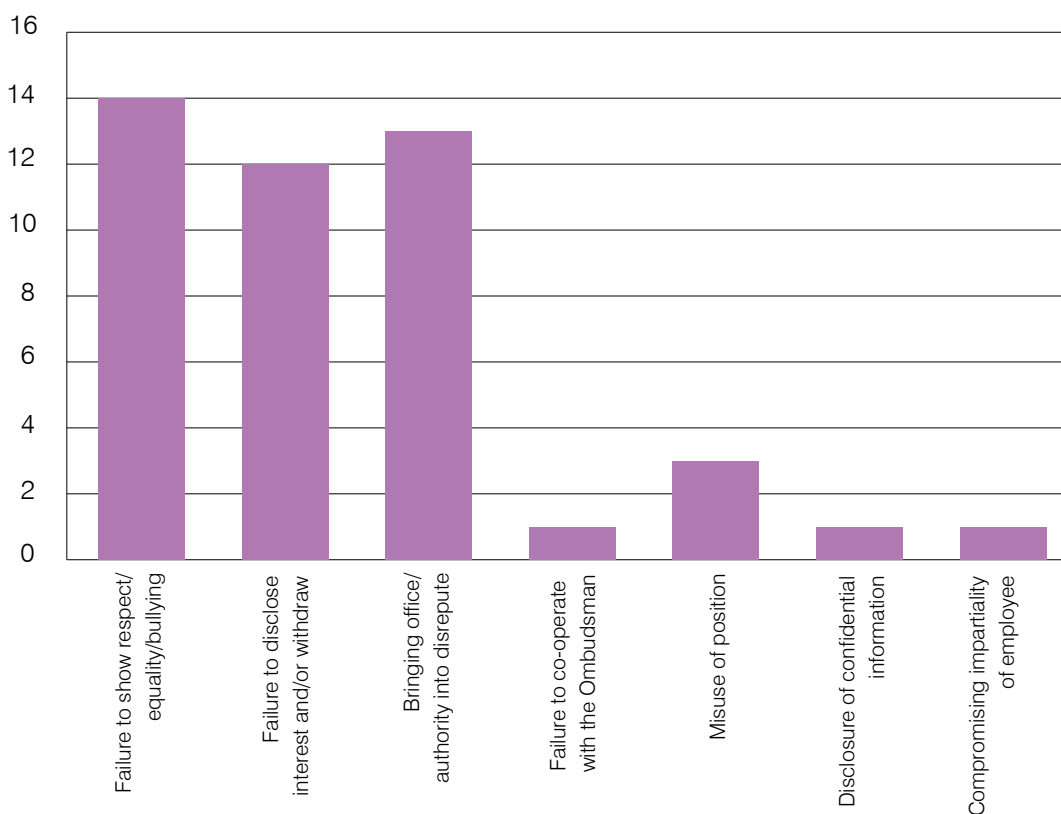


Chart 2.3: Outcomes of references and appeals April 2017- March 2022

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

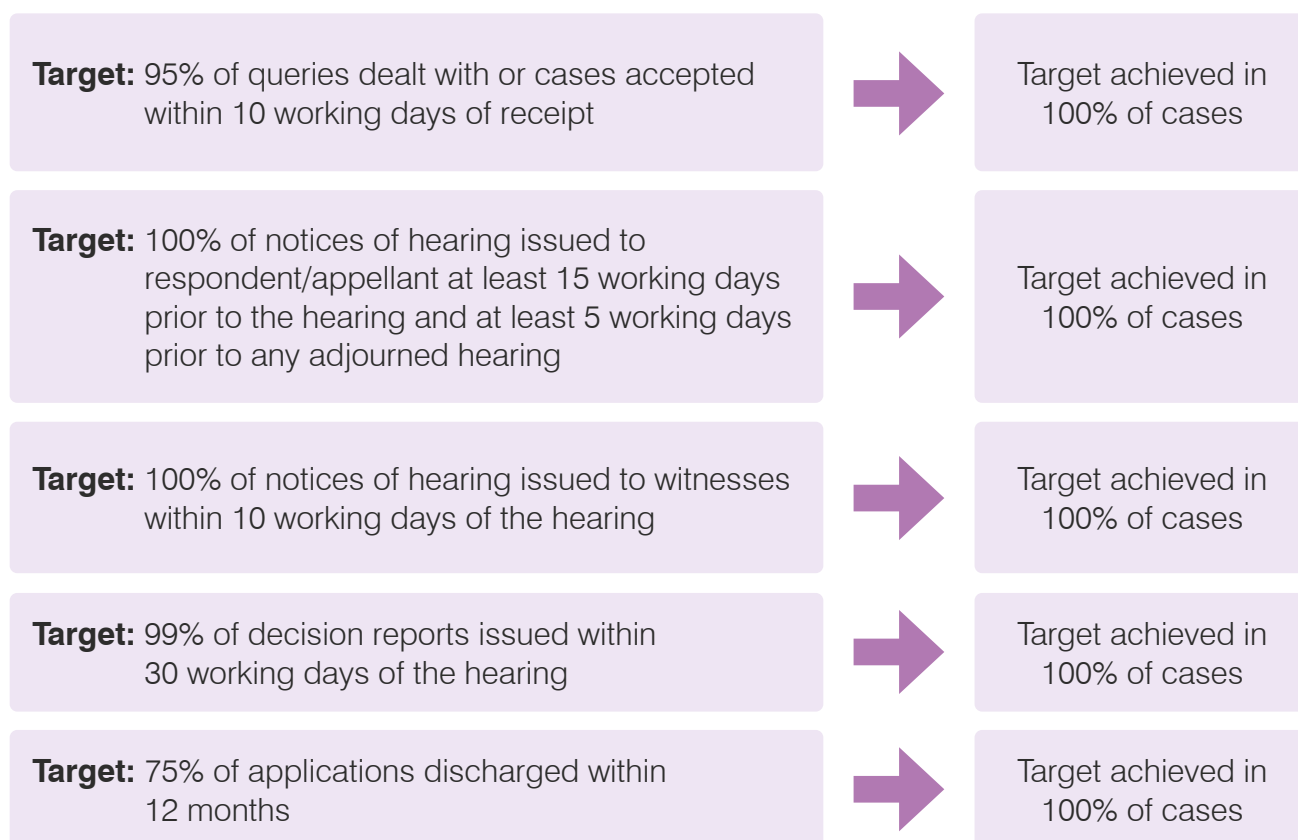
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

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
Total	£49,151

Rounded to the nearest £1