

# Public Document Pack

**Anwen Jones Solicitor/Cyfreithiwr**  
Interim Head of Legal and Democratic Services  
Pennaeth Dros Dro Gwasanaethau Cyfreithiol a



To: Kevin Sibbons (Chairman)

CS/NG

Councillors: David Cox, Hilary McGuill and  
Arnold Woolley

28 August 2012

**Co-opted Members**

01352 702350

Chris Bretherton-Watt, Patricia Jones, Kenneth  
Martin and Merfyn Roberts

Dear Sir / Madam

A meeting of the **STANDARDS COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **MONDAY, 3RD SEPTEMBER, 2012** at **6.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

## **AGENDA**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 3 **MINUTES** (Pages 1 - 4)

To confirm as a correct record the minutes of the meeting held on the 18 June, 2012.

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The Council welcomes correspondence in Welsh or English  
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

4 **APPOINTMENT OF TOWN & COMMUNITY REPRESENTATIVE** (Pages 5 - 14)

Report of the Monitoring Officer enclosed.

5 **FLINTSHIRE COUNTY COUNCIL STANDARDS COMMITTEE ANNUAL REPORT 2011/12** (Pages 15 - 24)

The attached annual report has been drafted for comments. Following approval it will be sent to all County Councillors, and all Town & Community Councils for information. The Committee may wish to make suggestions on who else should receive copies of the report.

**Recommendation**

1. That the report be approved; and
2. That the Committee comment on who should receive copies of the report.

6 **PUBLIC SERVICE OMBUDSMAN'S ANNUAL LETTER 2011/12** (Pages 25 - 36)

To receive and note the attached Public Service Ombudsman for Wales' Annual Letter 2011/12.

7 **TRAINING & DEVELOPMENT NEEDS FOR STANDARDS COMMITTEE MEMBERS**

This will be a discussion about what training and development members of the Committee would like in order to support them in their role.

8 **COUNCILLOR NEWSLETTERS** (Pages 37 - 44)

To approve a policy on the use of Council resources for the production of Councillor's newsletters

## **STANDARDS COMMITTEE** **18 JUNE 2012**

Minutes of the meeting of the Standards Committee of the Flintshire County Council held at County Hall, Mold, on Monday, 18 June 2012.

### **PRESENT: Mr. K.P. Sibbons (Chairman)**

Mr. C. Bretherton-Watt, Mr. M. Roberts and Mrs. P.S. Jones

**Councillors:** D.L. Cox, H.J. McGuill and A. Woolley

### **ALSO PRESENT:**

Councillors J.B. Attridge, C.S. Carver, R.B. Lloyd and A.P. Shotton

**APOLOGIES:** Mr. K.A. Martin

### **IN ATTENDANCE:**

Monitoring Officer and Committee Officer

Prior to the commencement of the meeting the Chairman welcomed and introduced newly elected Members to the Committee.

## **1. DECLARATIONS OF INTEREST (Including Whipping Declarations)**

No declarations of interest were made.

## **2. MINUTES**

The minutes of the meeting held on 20 February 2012 were confirmed as a correct record.

### **RESOLVED:**

That the minutes be received, approved and signed by the Chairman as a correct record.

## **3. DISPENSATION**

The Chairman explained that Councillor C.S. Carver was in attendance at the meeting as he had submitted an application for dispensation in relation to 'land off Overlea Drive, Hawarden' to enable him to correspond and discuss with officers, make representations and speak upon planning applications at Flintshire County Council and Hawarden Community Council.

The Chairman invited Councillor Carver to outline his application in more detail. Councillor Carver provided background information and explained that he had made previous requests for dispensation on the matter. He referred to the meeting of the Standards Committee held on 13 September 2010 and reported that he had received dispensation to speak and vote on the item at Hawarden Community Council and to make written representations on the item including to the Planning Committee. He also submitted a further

request for dispensation which was considered at the meeting of the Committee held on 14 November 2011, as he was unclear if his existing dispensation was for single or multiple use. Following the meeting he had received a letter of dispensation from the Interim Monitoring Officer which he understood confirmed that dispensation had again been granted. However, in March 2012, when Councillor Carver sought further information from the Democracy and Governance Manager, he was advised that the dispensations granted in the minutes of the meetings of the Standards Committee held in September 2010 and November 2011 were not fully appropriate for the purpose intended by Councillor Carver.

The Monitoring Officer gave an overview of the circumstances when a Standards Committee may grant dispensations and advised on the specific grounds which were relevant to Councillor Carver's application. He responded to the queries raised by members and provided further advice to assist the Committee in its decision making process.

Councillor Carver withdrew from the meeting whilst the Committee made their decision.

The Committee considered the application together with the additional oral explanations provided by Councillor Carver at the meeting and it was agreed that Councillor C.S. Carver be granted a dispensation for a period of 12 months ending 17 June 2013.

#### **RESOLVED:**

- (a) That Councillor C.S. Carver be granted a dispensation for a period of 12 months ending 17 June 2013 enabling him to:
1. make written representations to and to request written information from Flintshire County Council as Local Planning Authority;
  2. speak at and/or remain in the room during the debate:
    - at any council or committee meetings of Flintshire County Council and/or Hawarden Community Council at which the press and/or public are entitled to be present; and
    - which are considering matters pertaining to the planning application (including any subsequent appeal(s)) for land off Overlea Drive, Hawarden (or any application which in the opinion of the Monitoring Officer in consultation with the Chair of the Standards Committee is substantially the same) as shown on the plan attached to the dispensation.
- (b) That under the terms of the dispensation Councillor C.S. Carver is not permitted to vote on nor exercise any council functions (whether executive or otherwise).

#### **4. ADJUDICATION PANEL FOR WALES**

The Monitoring Officer referred to a letter and Notice of Decision from the Adjudication Panel for Wales, copies of which had been circulated with the

agenda. He explained the item had been included on the agenda for information to provide the opportunity for the Committee to familiarise itself with decision making and thinking at Adjudication Panel and Ombudsman level. Members were also asked to consider any matters that could be derived from the case tribunal's decision or further action that may be taken.

The Monitoring Officer referred to the case tribunal recommendation that Saltney Town Council should seek advice and further training on the code of conduct from the Authority for all members following the May 2012 elections. He reported that he would be attending a meeting of Saltney Town Council in July to introduce himself as the new Monitoring Officer, and that he would offer training to the Council at that visit. He added that 3 training sessions had already been arranged to which all town and community councillors were invited (taking place on the 20<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> June). If Saltney Town Council wished to host further training to which councillors on other town and community councils could be invited, then he would be happy to arrange it.

The Chairman commented on the invitation which the Authority extended to Town and Community Council representatives during the year to attend a meeting of the Standards Committee and submit questions for discussion. He suggested that the meeting would also provide an appropriate opportunity for consideration of topics such as training and other areas where representatives deemed advice and support was needed.

**RESOLVED:**

That the letter and Notice of Decision be noted.

**5. DURATION OF MEETING**

The meeting commenced at 6.00 p.m. and ended at 6.48 p.m.

**6. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were two members of the public and no members of the press in attendance.

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**Chairman**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** STANDARDS COMMITTEE

**DATE:** MONDAY, 3 SEPTEMBER 2012

**REPORT BY:** MONITORING OFFICER

**SUBJECT:** APPOINTMENT OF TOWN & COMMUNITY REPRESENTATIVE

### **1.00 PURPOSE OF REPORT**

- 1.01 To select a representative from the Town & Community Councils to serve on the Standards Committee.
- 1.02 To amend the process for appointing such representatives.

### **2.00 BACKGROUND**

- 2.01 The Standards Committees (Wales) Regulations 2001 (as amended) require the Council to appoint a Town/Community representative to its Standards Committee and for that representative to be present when the committee decides any matter relating to Town and/or Community Councils/Councillors. They also require that before appointing such a member the County Council must consult the Community Councils in its area.
- 2.02 At the AGM on the 13 May 2008 it was resolved that the following process should be used to appoint a representative of the Town and Community Councils to serve on the Standards Committee:

The monitoring Officer recommended that the Panel be appointed comprising:-

- Retiring Member of the Standards Committee representing Town and Community Councils.
- The Chairman or vice-Chairman of the Council
- The Chairman or Vice-Chairman of the Standards Committee of a neighbouring authority.

The Council endorsed this suggestion.

### **RESOLVED**

- a) That the Council re-affirm the existing arrangement for the appointment of their three representatives, with one from each of the main political groups, be approved.

- b) That the nominations be Councillors D Cox, D Mackie and S R Baker.
- c) That a Panel be appointed as detailed in the report for the appointment of a new Member, be approved.
- d) That the Monitoring Officer be given delegated authority to make all necessary arrangements.

This procedure had also been used to recruit the previous representative.

2.03 The previous Town/Community representative ceased to be a Community Councillor at the elections in May as she did not stand for re-election. Consequently, she can no longer serve as the Town/Community representative. The Head of Legal & Democratic Services therefore wrote to all Town and Community Councils on the 21 June 2012 providing information about the role (attached as appendix 1) and seeking nominations by the 31 July 2012.

2.04 9 nominations were received and the Head of Legal & Democratic Services short-listed 7 applicants. The recruitment panel met on 28<sup>th</sup> August 2012 and interviewed 6 applicants, 1 having withdrawn. The recruitment panel was seeking a candidate who was independent of the County Council and who also possessed the following qualities:

- Listening skills
- Ability to understand and weigh up evidence
- Ability to come to an objective view and explain that view by reference to the evidence
- Team working skills
- Respect for others and understanding of diverse issues
- Discretion
- Personal integrity

2.05 The name of the preferred candidate will be submitted at the meeting

2.06 Whilst the previous procedure has been used twice, it does seem strange that Flintshire County Council's own independent Chair of the Standards Committee is not involved. When recruiting future Town and Community representatives the suggestion would be that the procedure set out at appendix 2 is used, and, that in the interests of openness, the process be included in Part 2, Article X of the Constitution.

### **3.00 CONSIDERATIONS**

3.01 The name of the preferred candidate will be submitted at the meeting.



#### **4.00 RECOMMENDATIONS**

- 4.01 That the preferred candidate be recommended to Council as the Town/Community representative to serve until the second County Council meeting after the AGM following the next County Council elections.
- 4.02 That Mrs Diane Johnson be thanked for her service on the Standards Committee and in the recruitment of her successor.
- 4.03 That the Chair of the Standards Committee from Wrexham County Borough Council be thanked for his involvement in recruiting the Town/Community representative.
- 4.04 That the procedure attached at Appendix 2 be recommended to Council for incorporation into the Constitution.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 None

#### **6.00 ANTI POVERTY IMPACT**

- 6.01 None

#### **7.00 ENVIRONMENTAL IMPACT**

- 7.01 None

#### **8.00 EQUALITIES IMPACT**

- 8.01 None

#### **9.00 PERSONNEL IMPLICATIONS**

- 9.01 The preferred candidate will be given induction training.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 Town and Community Councils.

#### **11.00 CONSULTATION UNDERTAKEN**

- 11.01 All Group Leaders have been consulted.

#### **12.00 APPENDICES**

- 12.01 Appendix 1 - Letter to T&C Councils dated 21 June 2012  
Appendix 2 - Standards Committee recruitment procedure

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985**  
**BACKGROUND DOCUMENTS**

As referred to in the report.

**Contact Officer:** Gareth Owens  
**Telephone:** 01352 702344  
**Email:** [gareth.owens@flintshire.gov.uk](mailto:gareth.owens@flintshire.gov.uk)

APPENDIX 1 – Letter to all Clerks of Town & Community Councils

GO/AEH

21 June 2012

Gareth Owens

01352 702440

01352 702494

E Mail : [gareth.owens@flintshire.gov.uk](mailto:gareth.owens@flintshire.gov.uk)


Dear

**Town/Community Council Representative on Flintshire's Standards Committee**

As you will be aware Flintshire County Council's Standards Committee must contain a Town/Community Councillor representative. The four year term of office for the current representative has expired following the local elections in May and the Council is seeking to recruit a new representative. I should be grateful if you could enquire whether any of your Council's members would be interested in taking up the position of Town/Community Council representative.

I enclose details of the position and an application form together with a copy of the Annual Report for the Standards Committee for this purpose and any interested parties can obtain the same by contacting Mandy Haslam on 01352 702411. The completed forms should be returned to myself by the end of July.

Yours sincerely



**Gareth Owens**  
Monitoring Officer

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**APPOINTMENT OF A TOWN AND COMMUNITY REPRESENTATIVE  
TO THE STANDARDS COMMITTEE OF  
FLINTSHIRE COUNTY COUNCIL**

Under the Local Government Act 2000, the Council is required to have a Standards Committee to promote and maintain high standards of conduct of elected and co-opted Members of the Authority. A vacancy for one member to represent Town and Community Councils exists and therefore the Council is now seeking applications from any person who wishes to be considered for discharging this important role.

Certain eligibility criteria will have to be met by successful applicants:-

- He/she should not be a member/officer or spouse of a member/officer of Flintshire County Council or another County Council, County Borough Council, National Park Authority, Fire Authority or Community Council.
- He/she must be able to meet the time commitment involved. Some flexibility is required as meetings may be held irregularly or at short notice
- Can not have been an officer/member of Flintshire County Council, Alyn & Deeside District Council, Delyn Borough Council or Clwyd County Council.

Due to the nature of the work of the Standards Committee, any Town and Community Council representative must:-

- Be of good character and integrity
- Have listening skills
- Have ability to understand and weigh up evidence
- Have ability to come to an objective view and explain that view by reference to the evidence
- Have teamworking skills
- Have respect for others and an understanding of diverse issues
- Be discrete
- Not actively participate in local or national politics
- Not have had significant previous disputes with the Authority
- Not have a close relationship with any member/officer of the Authority

The Authority is an Equal Opportunity employer and provider of services and welcomes applications from all sections of the community.

Any person wishing to apply to become an independent member should apply to Gareth Owens, Monitoring Officer, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NR, Telephone (01352) 702411, for an application pack and form.

Closing date for receipt of applications will be 31 July 2012.

The successful candidate will be expected to take up the appointment in September/October 2012 and serve a term of between 4-6 years.

### Timetable of Meetings

Monday, 3 September at 6pm  
Monday, 1 October at 6pm  
Monday, 5 November at 6pm  
Monday, 3 December at 6pm  
Monday, 7 January 2013 at 6pm  
Monday, 4 February at 6pm  
Monday, 4 March at 6pm  
Monday, 8 April at 6pm  
Monday, 13 May at 6pm  
Monday, 10 June at 6pm  
Monday, 8 July at 6pm

**Procedure for Appointing a Town & Community Council  
Representative to the Standards Committee**

- (1) The Monitoring Officer will write to all Town and Community Council Clerks inviting applications to be submitted for the position, allowing at least 1 month for applications to be made.
- (2) The Monitoring Officer and Chair of the Standards Committee will short list applications prior to interview.
- (3) Short listed candidates will be interviewed by a panel consisting of:
  - The Chair of the Council
  - The Chair of the Standards Committee
  - The Monitoring Officer
- (4) The name of the preferred candidate will be reported to the Standards Committee for recommendation to Council.
- (5) The name of the preferred candidate will also be notified to all Town and Community Councils and Associations representing them, seeking comments prior to appointment by Council.
- (6) The County Council will consider any comments before appointing the Town / Community Council representative.

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# Standards Committee

Annual Report 2011/2012

June 2012

# Foreword by the Chairman

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This has been my first year as Chairman of the Flintshire County Council Standards Committee. I have very much enjoyed the meetings of the Standards Committee and I am sure my colleagues on the Committee would join me in that sentiment.

We have as a group shared our experiences and knowledge and hopefully we have all increased our understanding of the need to maintain the highest possible standards at local and national government level and elsewhere in public life. In addition to attending Standards Committee meetings at Flintshire County Council, I have also attended the North Wales Standards Committee Forum which is a regional group set up to share experiences, knowledge and discuss any hot topical issues so as to assist colleagues across North Wales in resolving any particular issues of concern and to also in addition maintain a consistent approach to common themes.

The Public Services Ombudsman for Wales and his colleagues within that office are, I am happy to confirm, fairly active in attending the Association of County Secretaries and Solicitors All Wales Group and to actively liaise with different local authorities when issues are raised on standards issues.

I understand that the Ombudsman himself and the Chair of the Adjudication Panel were present last year at the All Wales Standards Conference in Llandrindod Wells on 5 October 2011. Various issues were raised at that conference which were of interest and concern to all who attended. For example:

- the subject of whether local authorities were granting indemnities to members in relation to codes of conduct allegations against them,
- the setting up of a local resolution to deal with low level of complaints by members against members,
- guidance on the Code of Conduct, in particular Section 10

The Standards Committee also attended an interesting meeting in Mold in October 2011 when we met with Town and Community Councils to discuss and air with them any areas of concerns and to assist or advise them as to any particular approach which should be taken on particular matters.

I would acknowledge the professionalism of my fellow Committee members, who when called upon to do so, are always willing to safeguard the Council's reputation and maintain the highest of standards.

I would also like to close this Foreword by thanking the retiring Monitoring Officer, Barry Davies, who retired from Flintshire County Council at the end of July 2011 and also the Interim Monitoring Officer, Anwen Jones, who continued that role until April 2012. The advice offered at all times from both was clear and dependable.

**Mr Kevin Sibbons**

Chair of the Standards Committee (May 2011 to current date)

# Members of the Committee

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Although the Standards Committee is one of Flintshire County Council's committees, it contains a majority of members who are independent of the running and the day to day operation of the Council or local government. In addition to these Independent Members the Committee includes a member who represents the interests of all the 34 Town and Community Councils within Flintshire, as well as three elected Members of Flintshire County Council.

The members and the dates when they are due to retire are set out below:-

## Independent Committee Members

	<u>Appointment Ends</u>	
Mr Kevin Sibbons	December 2012	Chair May 2011 to date
Mr Kenneth Martin	February 2013	
Mr Chris Bretherton-Watt	November 2013	
Mr Merfyn Roberts	January 2014	
Mrs Patricia Jones	July 2014	

## Community Committee Member

Councillor Diane Johnson	May 2012
(new representative to be appointed following the May elections)	

## Flintshire County Council Members

Councillor David Cox (Labour)	May 2017
Councillor Hilary McGuill (Liberal Democrat)	May 2017
Councillor Arnold Woolley (Independent)	May 2017

# The Committee's work

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The Committee's main role is to promote and maintain high standards of conduct by councillors and to assist them to observe the Members' Code of Conduct. It is responsible for doing so for Members of Flintshire County Council and the County's Town and Community Councils. The Committee has recently decided that it should further develop this role and raise its profile.

The Committee is responsible for considering and deciding upon complaints, referred to it by the Public Service Ombudsman for Wales, that members have breached the Code of Conduct.

It also considers applications made by members for dispensations to allow them to take part in discussions even though they have a prejudicial interest under the Code.

## Frequency of Meetings

During the year the Committee has met on the following occasions:

- 9 May 2011
- 11 June 2011
- 5 September 2011
- 10 October 2011
- 14 November 2011
- 5 December 2011
- 20 February 2012
- 18 June 2012

The work of the Committee has involved discussions on issues including:-

1. The Ombudsman's Guidance on the Code of Conduct

For most of the year the Committee were awaiting an updated guidance from the Public Services Ombudsman for Wales, in particular regarding certain sections of the Code of Conduct, which were giving concerns to members, eg. Section 10 2(b). However the guidance was not forthcoming until March 2012. Existing/returning Members of the Council were provided with the opportunity of refreshing their knowledge on the Code of Conduct (with the benefits of this updated guidance) in May 2012. New Members of the Council were also provided with a similar opportunity to receive full training on the whole of the Code of Conduct.

# The Committee's work

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## 2. Dispensations

The Members' Code of Conduct provides that a Councillor cannot take part in a discussion if he/she has a 'prejudicial interest' under the Code of Conduct. However, the member does have the right to make an application to the Committee for permission to take part in the discussion despite the existence of the interest, ie. a dispensation.

The Committee considered 12 applications during this period. 10 were from Flintshire County Council Members whilst the other applications were from Town and Community Council Members. All applications were granted.

## 3. Allegations Against Members

At the Standards Wales Conference in October 2011 the Ombudsman provided statistics of the type of allegations/complaints being received and sanctions imposed. This information is appended to this report (Appendix A). In the main, three areas of complaints dominate the statistical information, namely:

- allegations of failure to show respect/equality/bullying
- bringing the office/authority into disrepute
- failure to disclose an interest and/or withdraw.

Given the latter set of allegations, this would seem to emphasise the need to ensure Members are provided with consistent advice regarding declarations of interest. The County Council were notified by the Ombudsman that he had received 9 complaints in relation to Code of Conduct matters, 6 were against Flintshire County Councillors and 3 against Councillors of Town and Community Councils. In all cases the Ombudsman decided not to investigate. In last year's Annual Report it was reported that there were two cases referred to the Adjudication Panel for Wales for determination. One of those is still sub judice and yet to be concluded. In addition, although the Standards Committee was not directly involved, another case was referred to the Adjudication Panel for Wales which involved a Town and Community Councillor which resulted in a suspension of the Councillor concern to the end of his term of office.

The Standards Committee received one referral from the Ombudsman's Office in February 2012 whereby they were asked to determine a matter against a Town Councillor following an investigation by the Ombudsman's Investigating Officer. The Standards Committee sat on 7 March 2012 to hear all the evidence. Although it was the decision of the Standards Committee that there had been a breach of the Code of Conduct, given all the circumstances it was decided not to impose any further sanction upon the Councillor concerned. Under a revised procedure introduced at the beginning of 2012 the Ombudsman may now offer to the Monitoring Officer/Standards Committee, the opportunity to mitigate specific cases referred to them by the Ombudsman. Flintshire County Council received one such case in which it was decided not to investigate.

# The Committee's work

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## 4. Local Protocol

A debate has been ensuing for most of the year between all local authorities and in conjunction with the Welsh Government and the Ombudsman's Office as to whether it would be good practice to have a local protocol at local authority level to deal with member on member complaints if they were of a low level. A number of local authorities in Wales, eg Swansea, Gwynedd and others have in fact adopted their own individual local protocols for resolution of these types of matters. It was hoped that the Welsh Government would provide a draft protocol which could be adopted across Wales which would provide a consistent approach for all councils in attempting to deal with these types of matters. The Ombudsman however was of the view that he would not make it compulsory for local authorities to use such a procedure. This matter has yet to be considered fully or thoroughly by Flintshire County Council as they had been awaiting a draft protocol from the Welsh Government. No doubt that this will become a topic for further discussion in the year to come.

## 5. Indemnity

Again due to cases being heard by the Adjudication Panel the topic of providing an indemnity to councillors who are being investigated by the Ombudsman and who may subsequently appear before the Adjudication Panel did become an issue during the course of 2011/12. Again the practice across Wales differs in various authorities with no consistent approach being provided. However there was consensus by all local authorities at the Standards Conference 2011 that there should no longer be an unlimited indemnity provided by local authorities to councillors and that a cap of a suitable and sensible level should be imposed in any appropriate case. The subject of insurance to cover such costs was another issue of concern. A number of councils have arranged that there be insurance cover should councillors wish to take up the insurance to cover them in situations where they may be taken to adjudication panel on allegations of code of conduct. However not all councillor have taken up the insurance. Others attached to specific political groups may have their own insurance cover. There is also concern that insurance companies themselves will not continue to provide this cover as it may no longer suit their business to do so.

# The Committee's work

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## The Wales Standards Committee Conference

The Committee was represented at the Wales Standards Conference 2011 in Llandrindod Wells by a number of members of Town and Community Councils. Presentations were given amongst others Peter Davies, President of the Adjudication Panel for Wales, Peter Tyndall, Public Services Ombudsman for Wales, Reg Kilpatrick of the Welsh Government on local resolution and Kate Perry the Chair of ACSeS.

The day long event was of use and interest covering the main topics which appear on the preceding pages of this report.

At the end of the day a case study was presented by Peter Keith-Lucas of Bevan Brittan in conjunction with members of the audience taking character roles in a mock hearing reflecting a typical situation where a declaration of interest may arise and how councils and standards committees need to approach these situations and what factors they will need to consider.

All who attended the meeting thought it was useful and beneficial to share and exchange information with other local authorities and to find out how they approach different matters. It was also useful and everyone took away some information which they could discuss with their wider standards committee members for improving any procedures or adopting such things as a local resolution, which would it was felt, increase and improve standards of members.

## Useful Contacts

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<b>Gareth Owens, Monitoring Officer</b>	Tel No. 01352 702344 E-mail: <a href="mailto:gareth.owens@flintshire.gov.uk">gareth.owens@flintshire.gov.uk</a>
<b>Peter Evans, Deputy Monitoring Officer</b>	Tel No. 01352 702304 E-mail: <a href="mailto:peter.j.evans@flintshire.gov.uk">peter.j.evans@flintshire.gov.uk</a>
<b>Public Services Ombudsman for Wales</b>	<a href="http://www.ombudsman-wales.org.uk">www.ombudsman-wales.org.uk</a>
<b>Adjudication Panel for Wales</b>	<a href="http://www.adjudicationpanelwales.org.uk">www.adjudicationpanelwales.org.uk</a>

# Appendix One

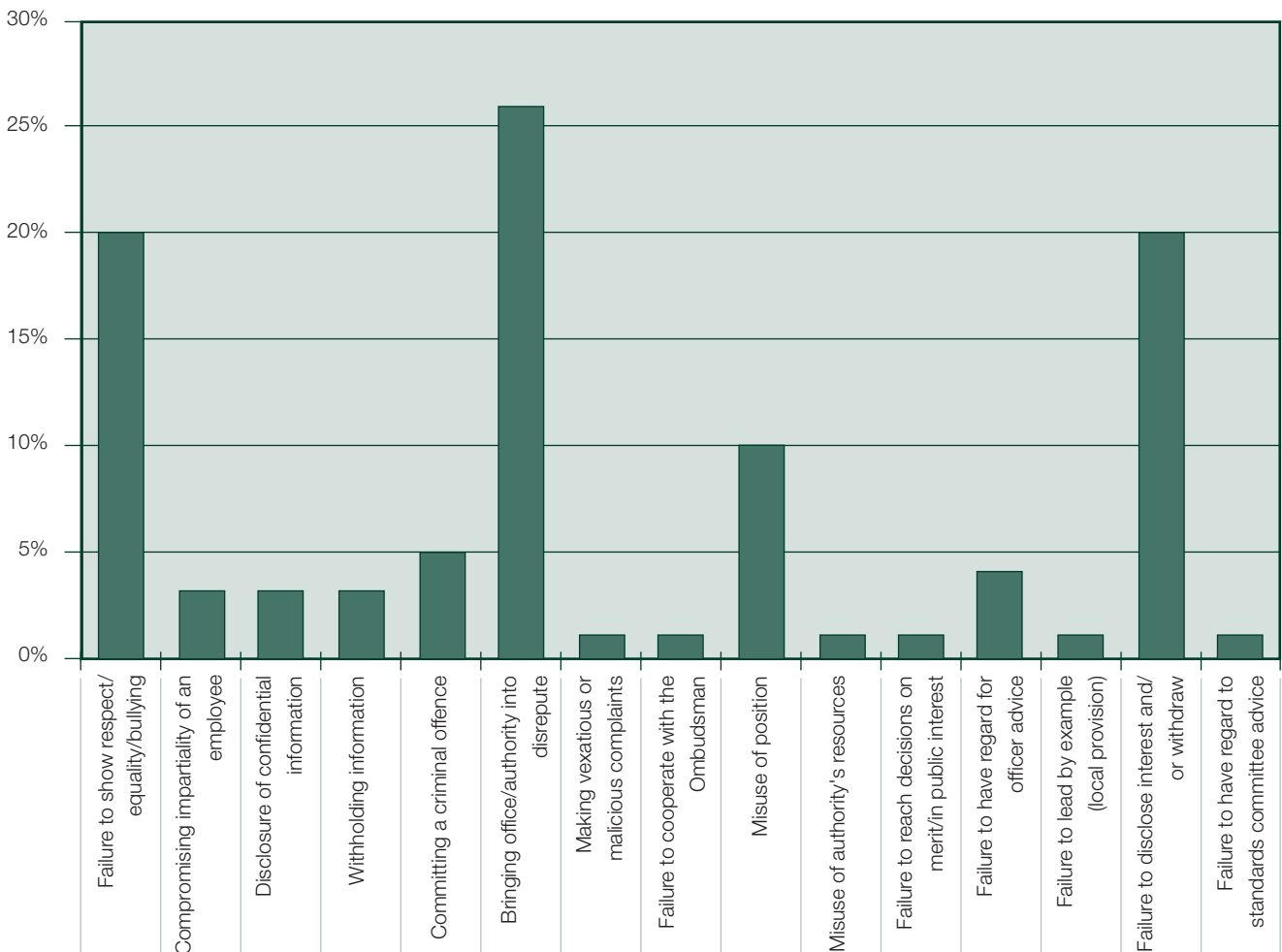
## Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2011

Sanction	Period	No of Decisions
<b>Case and Appeal Tribunals</b>		
Disqualification	2 years 6 months	1
	2 years	1
	1 year 6 months	1
	1 year	3
Suspension	12 months	5
	9 months	3
	6 months	4
	4 months	1
	3 months	2
	2 months	4
	1 month	2
Partial Suspension	3 months	1
	7 weeks	1
Censure	-	2
Breach – no action	-	5
No breach	-	4
Withdrawn	-	2
<b>Appeals</b>		
Breach of code upheld/dismissed		
Sanction endorsed		
Different sanction recommended		
Not accepted		
• Out of time	1	
• Not in jurisdiction	1	



Failure to show respect/equality/bullying	20%
Compromising impartiality of an employee	3%
Disclosure of confidential information	3%
Withholding information	3%
Committing a criminal offence	5%
Bringing office/authority into disrepute	26%
Making vexatious or malicious complaints	1%
Failure to cooperate with the Ombudsman	1%
Misuse of position	10%
Misuse of authority's resources	1%
Failure to reach decisions on merit/in public interest	1%
Failure to have regard for officer advice	4%
Failure to lead by example (local provision)	1%
Failure to disclose interest and/or withdraw	20%
Failure to have regard to standards committee advice	1%

### Breaches by type October 2002-March 2011



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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** STANDARDS COMMITTEE

**DATE:** MONDAY, 3 SEPTEMBER 2012

**REPORT BY:** MONITORING OFFICER

**SUBJECT:** PUBLIC SERVICE OMBUDSMAN'S ANNUAL LETTER  
2011/12

### **1.00 PURPOSE OF REPORT**

1.01 To receive and note the Annual Letter of the Public Services Ombudsman for Wales (copy attached as Appendix 1).

### **2.00 BACKGROUND**

2.01 The Annual Letter provides a clear and concise breakdown of all complaints received and investigated by the Ombudsman's office during 2011/12 in relation to the Council. These cover both complaints about services (not) provided by the Council and complaints about Councillors under the Code of Conduct.

2.02 In summary, Flintshire had:

- Fewer complaints than the all Wales average, although numbers have risen (39 – 2011/12, 34 – 2010/11).
- Complaints about services taken into investigation remain static at 3.
- Flintshire's response time to requests for information is more efficient than the Wales average.
- No Code of Conduct complaints were investigated by the Ombudsman.

### **3.00 CONSIDERATIONS**

3.01 The Committee is asked to note the contents of the report.

### **4.00 RECOMMENDATIONS**

4.01 That the Standards Committee makes any recommendations it believes appropriate with regard to the Letter.

4.02 That the Committee notes the contents of the Letter.

**5.00 FINANCIAL IMPLICATIONS**

5.01 None.

**6.00 ANTI POVERTY IMPACT**

6.01 None.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None.

**8.00 EQUALITIES IMPACT**

8.01 None.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None.

**10.00 CONSULTATION REQUIRED**

10.01 None required.

**11.00 CONSULTATION UNDERTAKEN**

11.01 None required.

**12.00 APPENDICES**

12.01 Appendix 1 – 2011/12 Annual Letter of the Public Services Ombudsman for Wales

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985  
BACKGROUND DOCUMENTS**

As referred to in the report.

**Contact Officer:** Gareth Owens  
**Telephone:** 01352 702344  
**Email:** [gareth.owens@flintshire.gov.uk](mailto:gareth.owens@flintshire.gov.uk)

Our ref: PT/jm

Ask for: James Merrifield

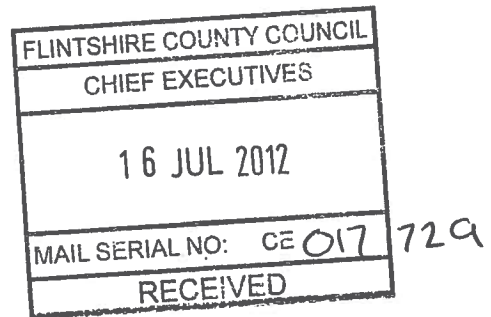
Your ref:

 01656 644 200

Date: 13 July 2012

 [James.Merrifield@ombudsman-wales.org.uk](mailto:James.Merrifield@ombudsman-wales.org.uk)

Mr Colin Everett  
Chief Executive  
Flintshire County Council  
County Hall  
Mold  
Flintshire  
CH7 6NR



Dear Mr Everett

### Annual Letter 2011/12

Following the recent publication of my Annual Report, I am pleased to enclose the Annual Letter (2011-2012) for Flintshire County Council.

The Annual Letter provides you with a clear and concise breakdown of all complaints received and investigated by my office during 2011/12 in relation to your Council. You will also find details of the time taken by your Council in responding to requests for information from my office, as well as summaries of all reports issued in relation to your Council.

As outlined in my Annual Report, the total number of complaints received by my office about maladministration and service failure increased by 13% compared with 2010/11. Whilst health complaints continue to be the most numerous type of complaints received by my office, Planning and Housing remain the next largest areas of complaint.

It is pleasing to note the increased levels of 'Quick Fixes' and 'Voluntary Settlements' which would often not be possible without the cooperation of public bodies. This means that it has been possible to increase the number of complaints closed at earlier stages without the need for a full investigation (where it is clear that there are no systemic issues associated with the complaint).

Nevertheless, my office had reason to issue a number of Public Interest Reports during 2011/12 which raised serious concerns and failings. A number relate to local authority complaints, I would encourage all councils to revisit these reports, which are available on my website, to ensure that the lessons are learnt. Others relate to health matters but could also have general learning opportunities for local authorities.

I raised concerns in last year's Annual Letters regarding the amount of time taken by public bodies in Wales in responding to requests for information from my office and it is disappointing that this situation has not improved. The statistics for 2011/12 show that average response times for Local Authorities, as well as other bodies in Wales, has worsened to the extent that roughly three quarters of responses are received more than four weeks after they were requested. I continue to urge all Welsh public bodies to assist my staff in progressing their investigations by providing responses in a timely manner.

In reference to the performance of your Council, although there has been a slight increase in the number of complaints received by my office, this figure remains below the Local Authority average. It is pleasing to note that the number of complaints taken into investigation for 2011/12 remains the same as the figure for 2010/11.

It is also pleasing to note the small number of 'Upheld' reports issued by my office. Your performance in responding to requests for information compares favourably with the Local Authority and All Wales averages.

Finally, I have outlined my concern at the 49% increase in the number of Code of Conduct complaints received by my office in this year's Annual Report, together with steps which I will consider taking to tackle any emerging practices in respect of such complaints. I have also set out changes designed to promote a local resolution process and reduce the number of complaints by councillors against other councillors which are brought to my office. Consequently, I hope to be able to report a decline in the number of Code of Conduct complaints received next year.

A copy of this letter will be published on our website shortly. If you consider it would be beneficial, I would be glad to meet with you to discuss the contents of this letter and the work of my office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Tyndall', written in a cursive style.

Peter Tyndall  
Ombudsman

## **Appendix**

### **Explanatory Notes**

Sections A and B provide a breakdown of the number of complaints about Flintshire County Council which were received and taken into investigation by my office during 2011-2012.

Section C compares the number of complaints against Flintshire which were received by my office during 2011-2012, with the local authority average for the same period. The figures are broken down into subject categories.

Sections D and E compare the number of complaints against Flintshire which were received and taken into investigation by my office during 2011-2012, with the local authority average (adjusted for population distribution<sup>1</sup>) during the same period.

Section F compares the complaint outcomes for Flintshire during 2011-2012, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section G compares the response times of Flintshire during 2011-2012 with the average response times for all local authorities, and all public bodies in Wales during the same period. Graph G measures the time between the date my office issues an 'investigation commencement' letter, and the date my office receives a full response to that letter from the public body.

Section H provides a breakdown of all Code of Conduct complaints received against Flintshire Councillors during 2011-2012.

Finally, Section 'I' contains the summaries of all reports issued in relation to Flintshire during 2011-2012.

In order to assist in measuring performance during 2011-2012, many sections also contain the relevant figures for 2010-2011.

### **Housing Stock**

As with the figures for 2010-2011, the figures for 2011-2012 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

### **Feedback**

We welcome your feedback on the enclosed information, including suggestions for any information to be enclosed in future annual summaries. Any feedback or queries should be sent to [james.merrifield@ombudsman-wales.org.uk](mailto:james.merrifield@ombudsman-wales.org.uk).

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<sup>1</sup> <http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=16889>. All figures have been rounded to 0 decimal places.

**A: Complaints received by my office**

<b>Subject</b>	<b>2011-2012</b>	<b>2010-2011</b>
Adult Social Services	2	3
Benefits Administration	1	2
Children's Social Services	3	5
Education	1	3
Environment and Environmental Health	4	2
Finance and Taxation	3	0
Health	1	0
Housing	9	7
Planning and building control	11	9
Roads and Transport	1	2
Various Other	3	1
<b>Total</b>	<b>39</b>	<b>34</b>

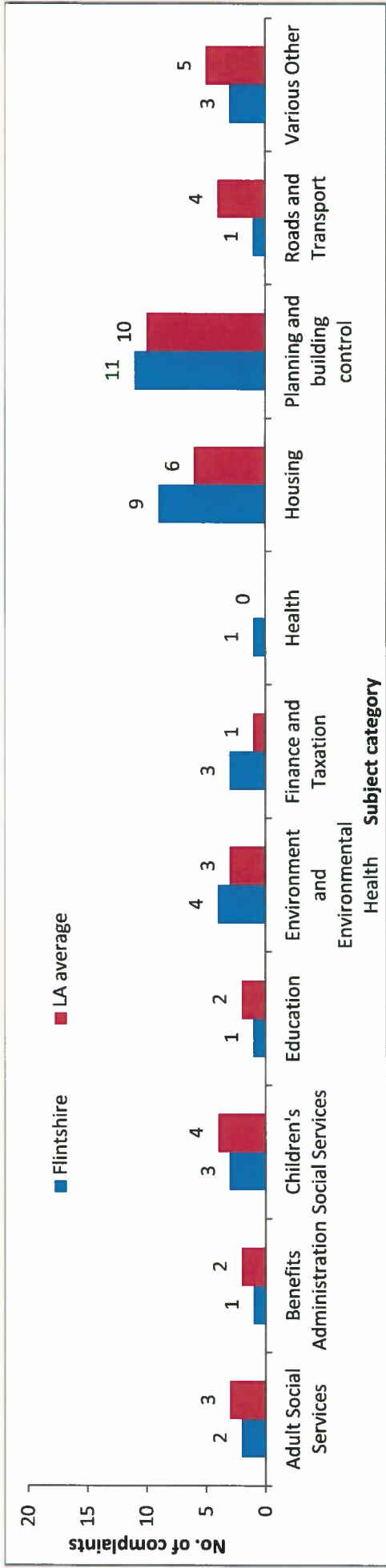
**B: Complaints taken into investigation by my office**

	<b>2011-2012</b>	<b>2010-2011</b>
Number of complaints taken into investigation	3	3

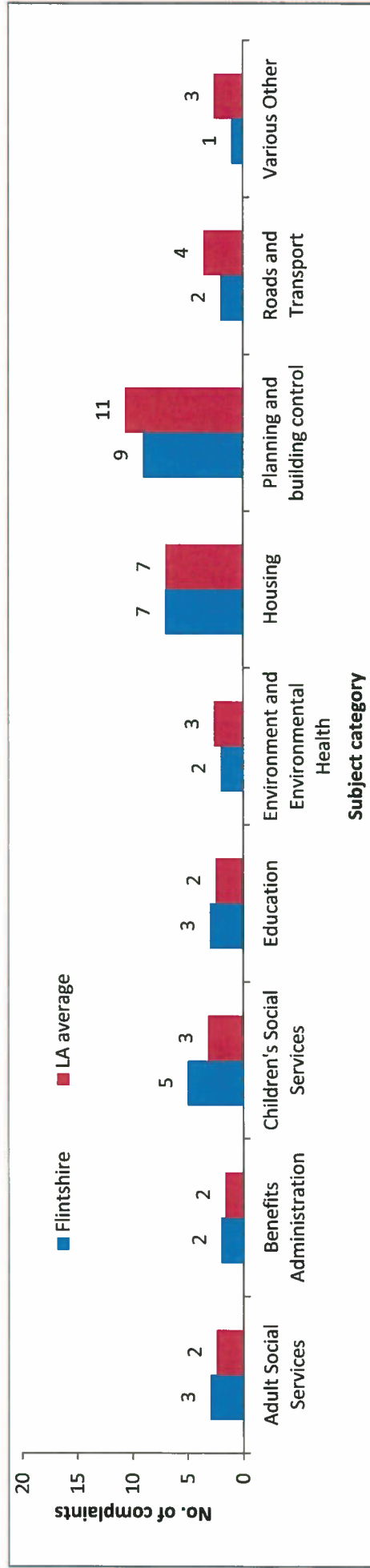


**C: Comparison of complaints by subject category with LA average**

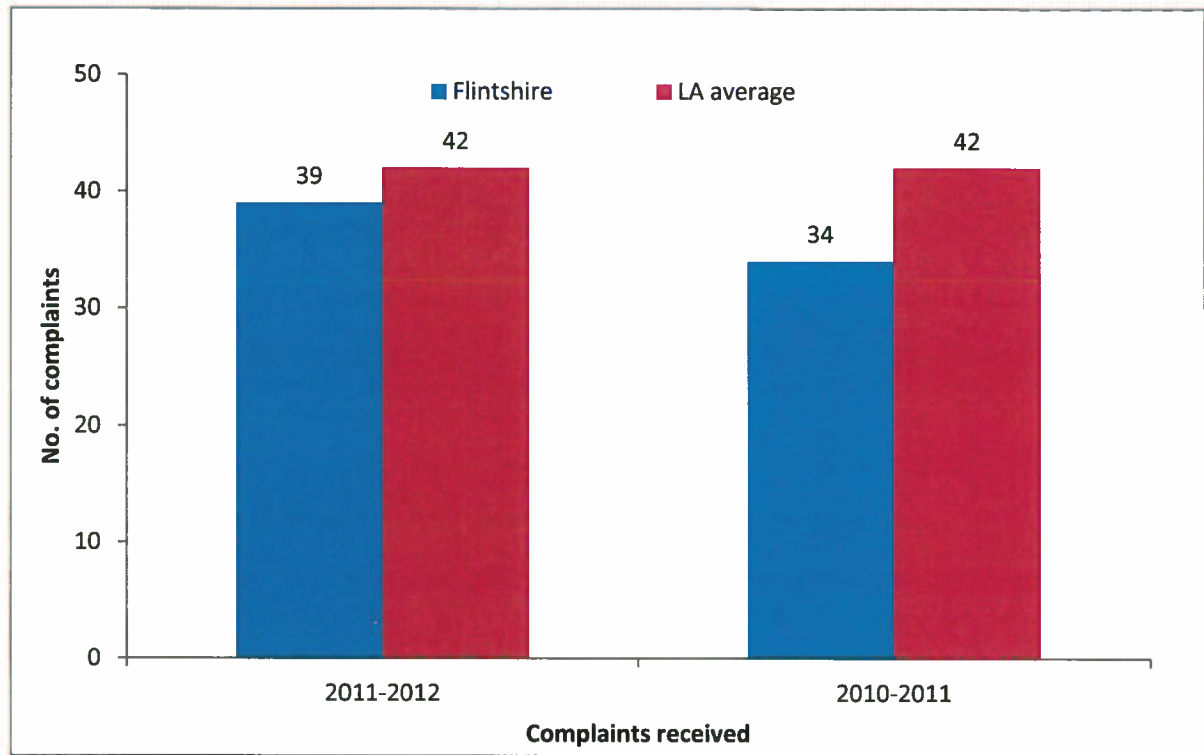
**2011-2012**



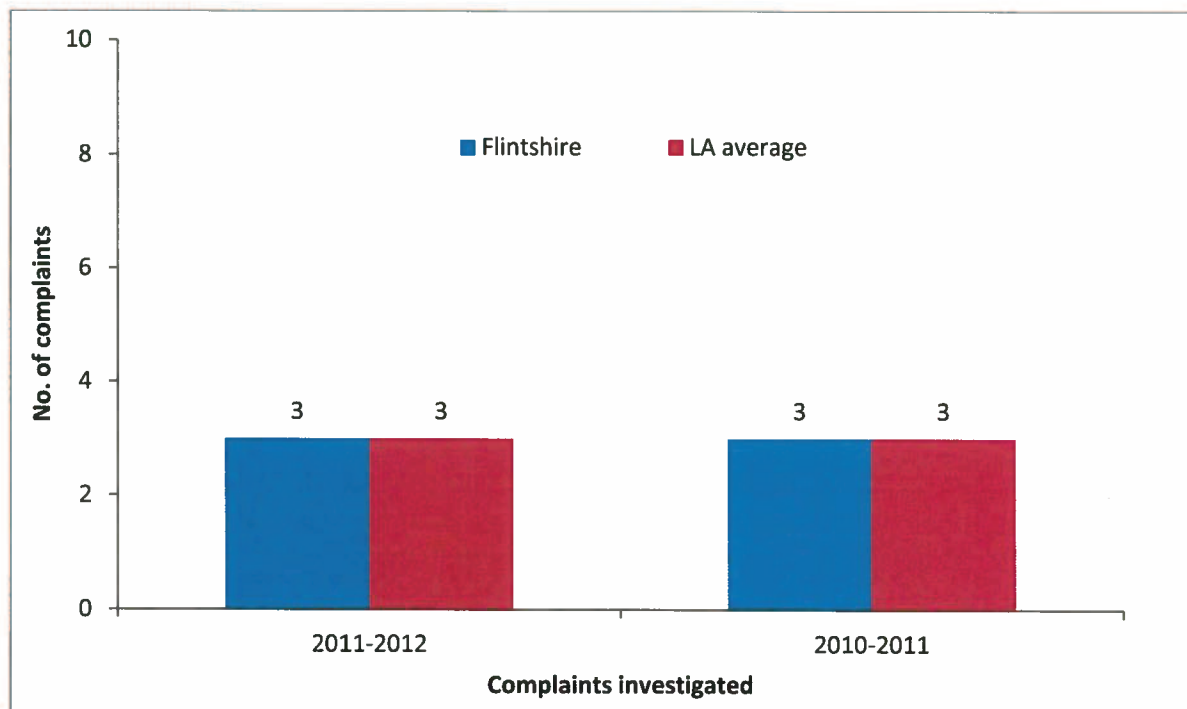
**2010-2011**



**D: Comparison of complaints received by my office with average, adjusted for population distribution**

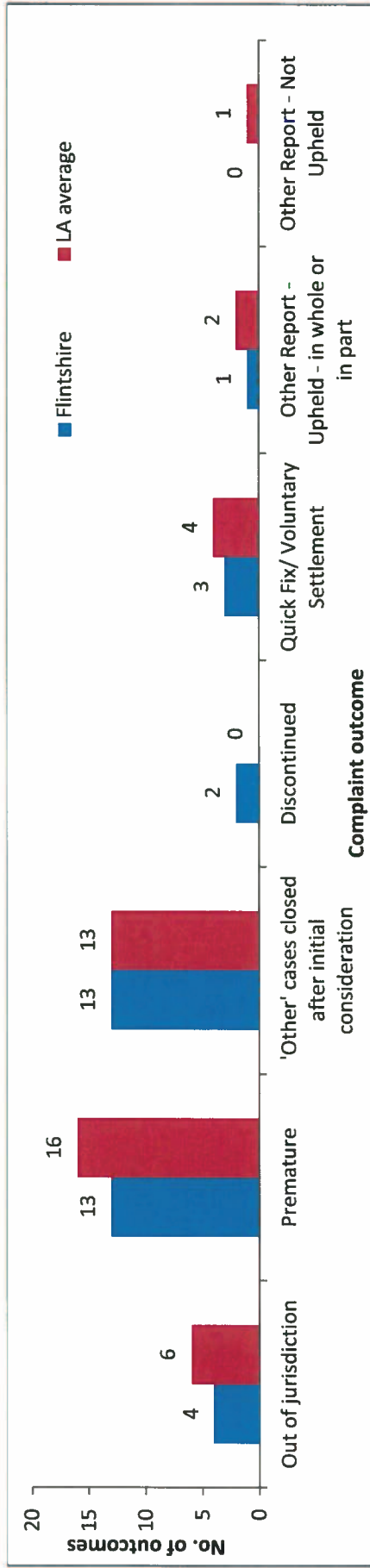


**E: Comparison of complaints taken into investigation by my office with average, adjusted for population distribution**

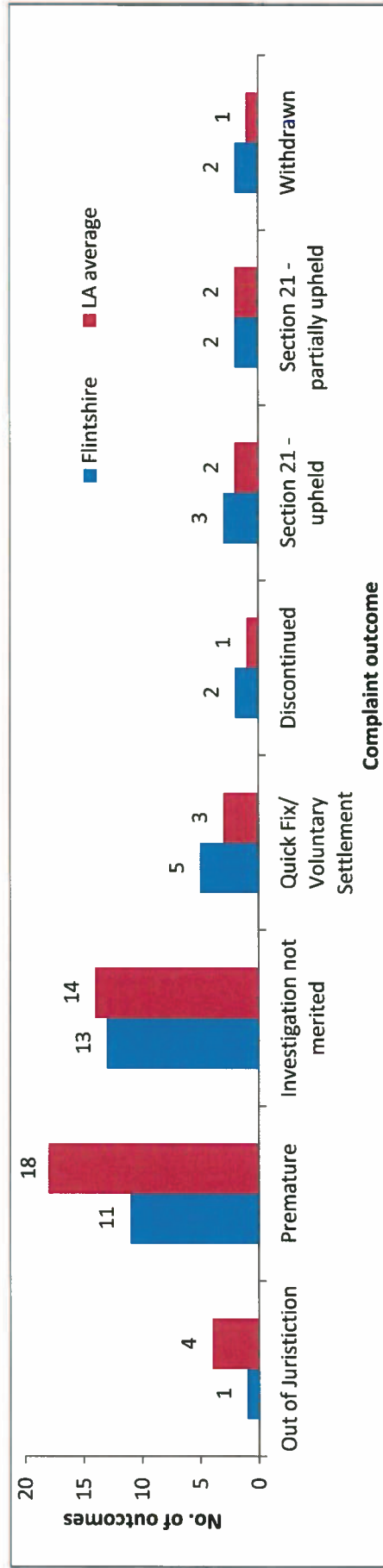


**F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution**

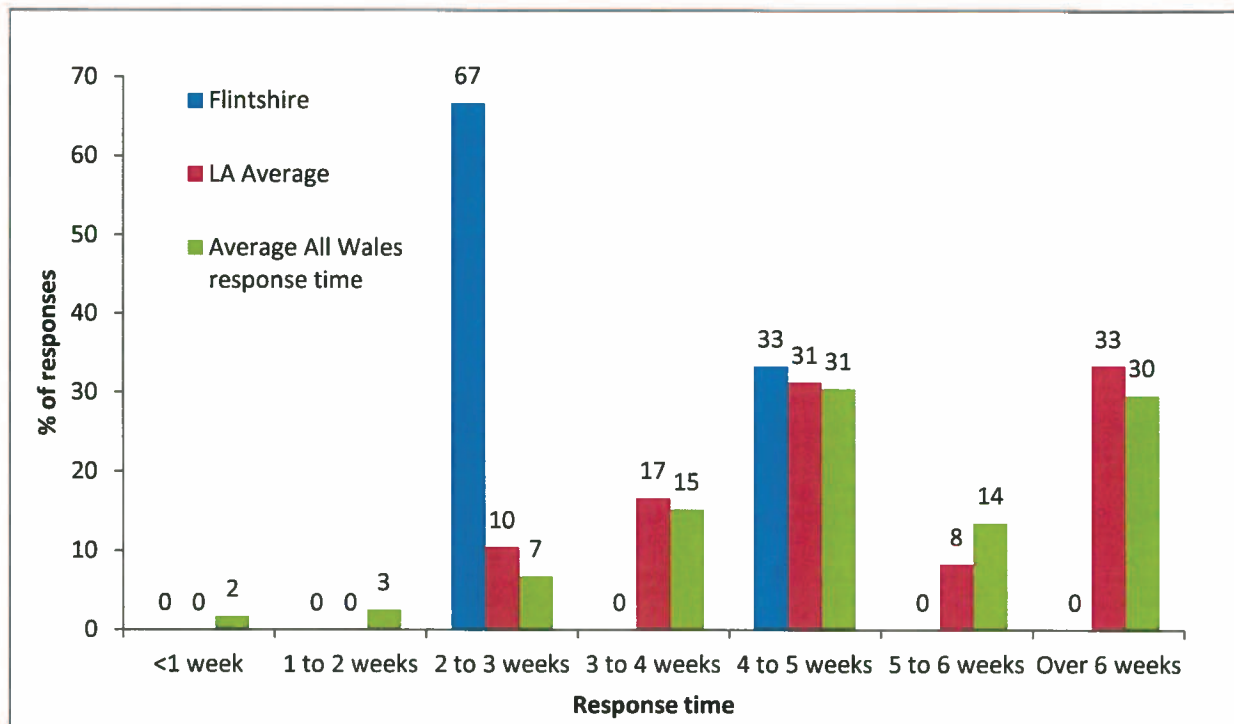
**2011-2012**



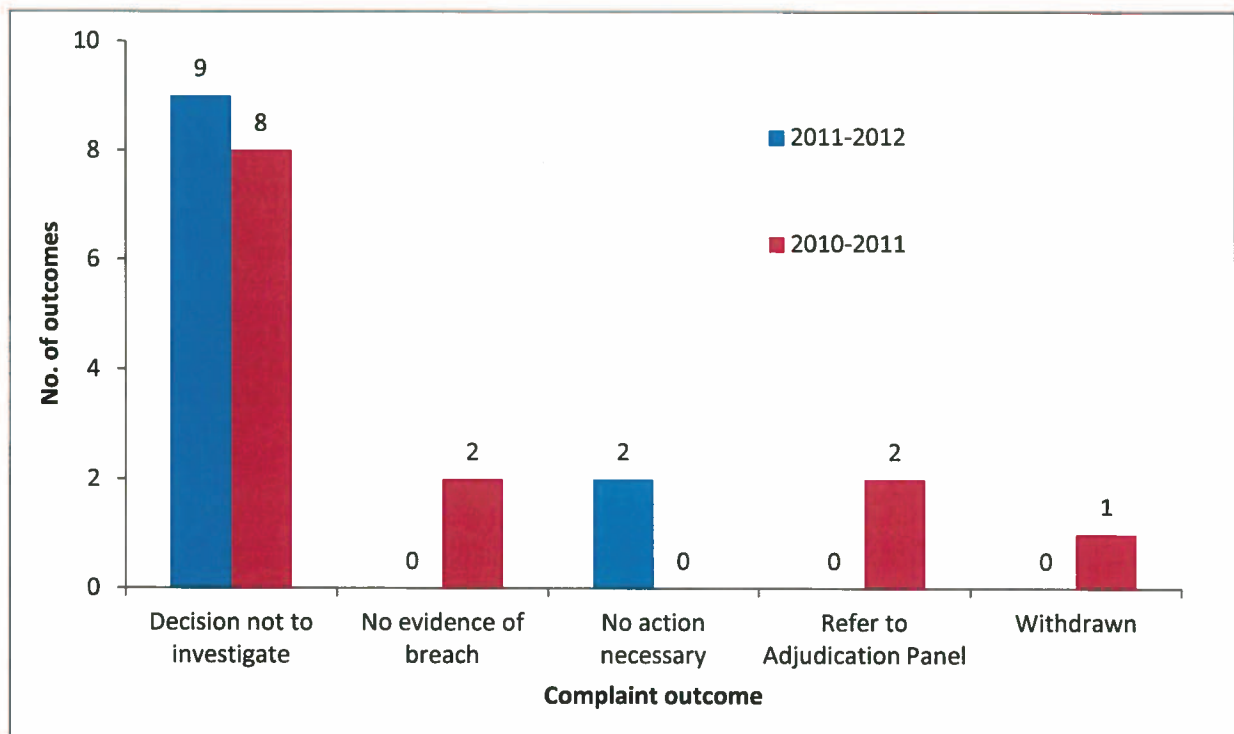
**2010-2011**



**G: Comparison of Flintshire's times for responding to requests for information with average LA and average All Wales response times, 2011 – 2012**



**H: Code of Conduct complaints**



## **I: Report summaries**

### **Planning and Building Control**

#### **Upheld**

##### **August 2011 – Handling of planning application – Flintshire County Council**

Mrs J complained, on behalf of a number of local residents, about Flintshire County Council's decision to grant planning permission for a glass recycling plant at a nearby industrial estate. Mrs J complained that the Council had failed to notify residents of the application and that there was maladministration in the way planning permission was granted.

The Ombudsman found that, despite the Council having decided to notify local residents of the planning application by letter, this did not in fact happen. This caused the residents some injustice as they may have lost their opportunity to comment on the application (albeit it was advertised in other ways). The Ombudsman upheld this part of the complaint and recommended that the Council should review its procedures for sending out notification letters. The Ombudsman also recommended that the Council should apologise to the residents who had complained and pay each of them £100 in recognition of their lost opportunity to comment. The Council agreed to the recommendations.

The Ombudsman did not uphold the complaint about the way the planning permission was granted. Although the Ombudsman accepted that the residents might disagree with the decision to grant permission, there was no evidence of maladministration in the way the decision had been taken. It was apparent that the grant of permission was in accordance with the Unitary Development Plan, and that relevant factors had been taken into account; as such the Ombudsman could not criticise the Council's decision.

**Case reference 201001564**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** STANDARDS COMMITTEE  
**DATE:** MONDAY, 3 SEPTEMBER 2012  
**REPORT BY:** HEAD OF LEGAL & DEMOCRATIC SERVICES  
**SUBJECT:** COUNCILLOR NEWSLETTERS

### **1.00 PURPOSE OF REPORT**

1.01 To approve a policy on the use of Council resources for the production of Councillor newsletters

### **2.00 BACKGROUND**

2.01 Paragraph 7 (b) of the Members' code provides that Members must not use, or authorise others to use, Council resources as follows:-

- i. Imprudently
- ii. In breach of the authority's requirements
- iii. Unlawfully
- iv. Other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which the Member has been elected or appointed.
- v. Improperly for political purposes, or
- vi. Improperly for private purposes.

2.02 The guidance from the Public Services Ombudsman for Wales issued in March 2012 gives guidance on this paragraph and this is attached as appendix 1 to this report.

2.03 At present the Council does not have any policy or guidance that it has issued in relation to paragraph 7 (b) of the Members' code. Whilst to a large extent the code and the written guidance are clear. One area that would benefit from further clarity is in relation to the use of Council resources for the production and distribution of Councillor newsletters.

### **3.00 CONSIDERATIONS**

3.01 It is a grey area as to whether or not Members issuing newsletters to their constituents using Council resources in the production and distribution of such newsletters would be construed as improperly using Council resources for political purposes.

- 3.02 The Council makes available for use by Members the facilities in the group rooms and in Member Services. These include computers, photocopying and postal arrangements. There is no current practice of these facilities being used for Councillor newsletters.
- 3.03 It is believed that there should be a consistent approach to the use of such facilities by the 70 Members which should take account of the possible cost implications to the Council tax payer.
- 3.04 It should also be recognised that where a Member chooses to spend time producing a newsletter using equipment supplied by the Council, this could be viewed as a legitimate part of the Members role rather than improper use for political purposes.
- 3.05 The above considerations have been taken into account in preparing a draft protocol which is attached as appendix 2 for consideration by the Committee.

#### **4.00 RECOMMENDATIONS**

- 4.01 For the Committee to consider the draft protocol attached as appendix 2 to this report.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 There would be significant financial implications if the cost of Members newsletters being printed or posted was to be met by the Council and there is no budget provision for this. Approval of the draft protocol would avoid any future printing/postage costs relating to Councillor newsletters.

#### **6.00 ANTI POVERTY IMPACT**

- 6.01 None as a result of this report.

#### **7.00 ENVIRONMENTAL IMPACT**

- 7.01 None as a result of this report.

#### **8.00 EQUALITIES IMPACT**

- 8.01 None as a result of this report.

#### **9.00 PERSONNEL IMPLICATIONS**

- 9.01 None as a result of this report.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 None as a result of this report.



**11.00 CONSULTATION UNDERTAKEN**

11.01 With political Group Leaders.

**12.00 APPENDICES**

12.01 Appendix 1 - Public Services Ombudsman for Wales written guidance  
Appendix 2 - Protocol – Councillor Newsletters

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985**  
**BACKGROUND DOCUMENTS**

Written guidance from the Public Services Ombudsman for Wales dated  
March 2012

**Contact Officer:** Peter Evans  
**Telephone:** 01352 702304  
**Email:** peter.j.evans@flintshire.gov.uk

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## **The authority's resources**

### **See Paragraph 7(b)**

You must only use or authorise the use of the resources of the authority in accordance with its requirements.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

## **Using resources for proper purposes only**

### **See Paragraphs 7(b)(v) and 7(b)(vi)**

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any guidance issued by your local authority.

You should never use council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business, for example, holding meetings of your political group. In this case, you must be aware of the limitations placed upon such use for these purposes. Members should also have regard to the fact that periods leading up to local government elections are particularly sensitive in this regard. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code. Some councils will permit members to use council supplied IT equipment such as laptops for ancillary use. Provided that such usage is in line with the council's requirements, there would not be a breach, but sending mass emails as part of an election campaign, for example, would not be appropriate.

Where, however, there is no policy or the policy is silent you may not use these resources for any political or private purposes.

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**Draft Protocol on the Use of Council Resources for the Production of Councillor Newsletters**

1. This protocol has been introduced to clarify the extent to which Council resources can properly be used by Members for the production of newsletters to their constituents.
2. Paragraph 7 (b) of the Members' Code of Conduct makes clear that Members must not use Council resources improperly for political purposes. This protocol should assist in determining the extent to which it is proper to use Council resources for the production of such newsletters.
3. Members are free to use the computers available in Member Services and in the group rooms for the purposes of designing and setting up newsletters to their constituents.
4. Members are not entitled to use the Council's printing and postal arrangements for distributing such newsletters and the cost should not be met from the public purse.
5. This protocol has been agreed by the Council's Standards Committee.

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