

Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr
Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



To: Edward Michael Hughes (Chairman)

CS/NG

Councillors: David Cox, Hilary McGuill and
Arnold Woolley

7 April 2015

Co-opted Members

Robert Dewey, Jonathan Duggan-Keen, Phillipa
Ann Earlam and Kenneth Harry Molyneux

Nicola Gittins 01352 702345

Dear Sir / Madam

A meeting of the **STANDARDS COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **MONDAY, 13TH APRIL, 2015** at **6.30 PM** to consider the following items.

Please note that a training session for the Standards Committee members will be held from 6.00pm until 6.30pm.

Yours faithfully

Democracy & Governance Manager

A G E N D A

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

3 **MINUTES** (Pages 3 - 8)

To confirm as a correct record the minutes of the meeting held on 9 February 2015.

4 **DISPENSATIONS**

5 **THE ADJUDICATION PANEL FOR WALES ANNUAL REPORT 2013-2014**
(Pages 9 - 34)

For the committee to consider the annual report of the Adjudication Panel for Wales (APW) issued in January 2015.

6 **VACANCY ON THE STANDARDS COMMITTEE** (Pages 35 - 40)

To approve the process for filling the vacancy on the committee

7 **FORWARD WORK PROGRAMME** (Pages 41 - 42)

For the Committee to consider topics to be included on the attached Forward Work Programme.

STANDARDS COMMITTEE **9 FEBRUARY 2015**

Minutes of the meeting of the Standards Committee of the Flintshire County Council held at County Hall, Mold, on Monday, 9 February 2015.

PRESENT: Edward Hughes (Chair)

Councillors:

David Cox, Hilary McGuill and Arnold Woolley

Co-opted Members:

Robert Dewey, Jonathan Duggan-Keen, Phillipa Earlam and Ken Molyneux

IN ATTENDANCE:

Chief Officer (Governance), Chief Officer (Planning and Environment) and Team Manager – Committee Services

46. DECLARATIONS OF INTEREST (including whipping declarations)

There were no declarations of interest.

47. MINUTES

The minutes of the meeting held on 8 December 2014 were submitted.

Accuracy

Minute 42 - Supplementary Protocols (Member/Officer Relations).
Phillips Ann Earlam to read Phillipa Ann Earlam.

RESOLVED:

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

48. DISPENSATIONS

Application for dispensations from Councillors John and Hilary Lamb to speak only about other sites which have been submitted for inclusion in the LDP

The Chief Officer (Governance) reported on requests for dispensations received following despatch of the agenda from Councillors John and Hilary Lamb of Northop Hall Community Council. Their requests were to speak only about sites, other than their own, which had been submitted for inclusion in the new Local Development Plan (LDP).

Mr Lamb addressed the Committee on behalf of himself and his wife and explained that they had both served on Northop Hall Community Council for 25 years. They owned a small field in Northop Hall which their son had

applied for it to be included in the LDP for small scale housing development. They had prejudicial interests in relation to consideration of their site by the Community Council and would leave the room whilst their site was being discussed.

However, they also believed that it could be perceived that they had prejudicial interests in all of the candidate sites because should they vote against any of the other sites for inclusion in the LDP, it could be the view that they were doing so to favour their own site by excluding others. They therefore did not wish to vote on any sites in the LDP but they did feel that it would not serve the interests of the public if they were excluded from participating in the debate about other sites given their vast experience gained during the last 25 years.

Of the 11 Northop Hall Community Councillors, five had less than two years' experience, with no experience of the LDP process. Included in that number was the Chairman who had 18 months experience as a Councillor and two Councillors having less than six months experience. For the reasons stated, they believed that it would be in the public interest to allow them to participate in the LDP debate in relation to the other candidate sites, not their own, without the right to vote.

The Chief Officer explained the LDP process which was where plans were developed by local planning authorities in order to provide the economic, social and environmental needs of the County and provided the opportunity for engagement with a variety of stakeholders early on in the process, such as Town and Community Councils.

The Chief Officer (Governance) asked if Northop Hall Community Council had the facility for public speaking at meetings and Mr Lamb explained that public speaking was allowed at the discretion of the Chair. Following the response, the Chief Officer clarified to the Committee that Mr and Mrs Lamb had no right to address the Community Council as members of the public as it was at the discretion of the Chair and if the Committee did not grant dispensation there was no avenue for them to share their knowledge.

He advised that it was inappropriate for them to speak on their own land which had been included in the LDP which had been acknowledged by Mr and Mrs Lamb in their application. However, they had vast experience in such matters, had resided in the area for a number of years and had been active members of the Town and Community Council.

Councillor Woolley asked how many sites were identified in the LDP for Northop Hall. Mr Lamb said he did not know the exact number but there were a considerable number.

Councillor McGuill asked if either Mr or Mrs Lamb had spoken against any of the sites identified in the LDP previously to which they both replied not that they were aware of.

At this point all members of the public withdrew from the room.

Councillor Woolley said he felt Mr and Mrs Lamb's experience would add value to any debate on the LDP and commented on the meticulous applications for dispensation that they had both submitted, where they had set their own limitations in that they did not ask to speak on their own site.

Councillor McGuill felt that speaking on other sites in the LDP could not be seen as prejudicial as they had not spoken against any of those sites previously, and particularly as they were not seeking dispensation to vote.

Councillor Woolley suggested a conditional approval on the basis that permission to speak on other sites be granted if there was no record of past prejudice on any of the other sites involved. The Chief Officer advised that such a condition would be difficult to satisfy as it would involve the Clerk to the Community Council checking past records to establish if any comments had been made in the past and whether or not those comments had been prejudicial, all of which would be at the discretion of the Clerk. Mr and Mrs Lamb had been asked if they had spoken against any of the sites previously and they had answered to the best of their ability. Robert Dewey felt that even if they had commented on sites previously, such comments would no longer apply and he supported their application.

Councillor Woolley proposed that the applications for dispensation be granted for Mr and Mrs Lamb to speak on other sites, not their own, and for them to leave the room prior to the vote being taken on the basis that they had not previously made any prejudicial comments on such sites.

Mr and Mrs Lamb were invited to re-join the meeting and the Chairman advised them of the Committee's decision to grant their requests for dispensation.

Application for dispensation from Councillor Peter York to speak and vote on Planning Application number 052922 on the installation of two Wind Turbines

Dr York addressed the Committee and explained that a similar application for a wind turbine had been submitted in 2012 during which time he was Mayor of Holywell Town Council. At that time he applied for a dispensation to speak on the item which had been granted by the Standards Committee.

The new application submitted for two wind turbines would, in his opinion, cause unrest and disquiet in the area. Although he was not a ward Councillor for the area where the application had been submitted, he did reside opposite where the proposed wind turbines would be situated. However, he stressed that he did not oppose them on their visual appearance and he was not biased about them but he did want to be able to express sensible comments to the Town Council.

The Chief Officer asked if the location of the two wind turbines was the same as the previous application to which Dr York replied it broadly was and was approximately two hundred yards from his home however he was unsure as to whether they would be visible from his property.

In response to a question from the Chief Officer, Dr York explained that, in addition to paragraphs (d) and (e), he had applied under paragraph (c) as he was one of only two Independent Members on the Town Council.

The Chief Officer advised that it was for members of the Standards Committee to determine whether or not they felt the public interest would be harmed if dispensation was granted.

At this point all members of the public withdrew from the room.

Robert Dewey said the application site appeared to more than two hundred yards away from Dr York's property and he supported the request for dispensation to speak and vote on the application, The Chief Officer suggested that if granted, the dispensation could also read 'and in the Monitoring Officer's view, on any other similar application', which was supported.

Dr York was invited to re-join the meeting and the Chairman advised him of the Committee's decision to grant his request for dispensation.

RESOLVED:

- (a) That Councillor John Lamb be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak on sites, and not his own, which have been submitted for inclusion in the LDP. To leave the room once spoken and before the vote takes place, on the basis that he had not previously spoken against any of those sites;
- (b) That Councillor Hilary Lamb be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak on sites, and not her own, which have been submitted for inclusion in the LDP. To leave the room once spoken and before the vote takes place, on the basis that she had not previously spoken against any of those sites; and
- (c) That Councillor Peter York be granted dispensation under paragraphs (c), (d) and (e) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 for a period of 12 months (ending 8 February 2016) to speak and vote on planning application number 052922 relating to two wind turbines and in the Monitoring Officer's view, on any other similar applications.

49. PUBLIC SERVICE OMBUDSMAN ANNUAL LETTER 2013/14

The Chief Officer (Planning and Environment) provided the Committee with details on the procedures put in place following the two complaints on unauthorised development and noise and other nuisance issues, information which had been requested by the Committee at the meeting in November 2014.

The Chief Officer explained the importance of being upfront and clear with objectors and developers on abatement notices with proactive work being undertaken with both parties.

There was now a prompt in the back office system where complaints could be progressed and it was his aim to move towards a 'self-service' system on Flintshire's website where the status and stage of complaints could be tracked.

Previous practice had been to submit quarterly reports to Town and Community Councils on enforcement issues and work was currently being undertaken with Town and Community Councils to ascertain what information they would find useful which could then be provided on the Website.

Robert Dewey suggested that a more explanatory status, other than 'under consideration' could be provided on the website with an indication of when further information was expected. The Chief Officer said that process was due to be introduced for Planning applications however it would be a considerable amount of work, due to the backlog, to input that data for enforcement issues.

In response to a question from Phillipa Earlam on where the information was kept, the Chief Officer explained that Enforcement Officers had access to the database which held all of the information. However, with the aim to move to an on-line process, the details would be available on the website but with some of the appropriate data fields being restricted.

Councillor McGuill asked about the process for issuing enforcement notices following a complaint. The Chief Officer explained that an Enforcement Officer would undertake a site visit and determine if there had been a breach of planning control. If there had not, an enforcement notice would not be served. The complainant would be written to with information as to why the complaint was not being progressed. He added that it was important that Town and Community Councils were aware of the enforcement process and for solutions to be negotiated wherever possible to reduce the number of enforcement notices being served.

RESOLVED:

That in light of having heard from the Chief Officer (Planning and Environment), the Committee were satisfied that the issues raised in the Public Services Ombudsman's Annual Letter 2013/14 were being addressed.

50. FORWARD WORK PROGRAMME

The Chief Officer (Governance) explained that the North Wales Standards Conference had been rescheduled from April and would now take place in October. The item would be moved on the Forward Work Programme.

Following a request from Ken Molyneux, the Chief Officer said the following items could be added onto the Forward Work Programme:

- Update on the vacancy on Standards Committee
- Further information on the planning process, particularly where a decision was taken that a resolution made by the Committee had been a significant departure from policy

RESOLVED:

- (a) That item on North Wales Standards Conference be deferred until after October;
- (b) That an update be provided on the vacancy on the Standards Committee; and
- (c) That further information be provided on the planning process, particularly where a decision was taken that a resolution made by the Committee had been a significant departure from policy.

51. FOR INFORMATION

The Chief Officer (Governance) referred to the Protocol on the Use of IT by Members, which had been circulated for information following a request at the meeting on 8 December 2014. Also circulated for information, following despatch of the agenda, was the Welsh Local Government Association (WLGA) Social Media Guidance.

RESOLVED:

- (a) That the Protocol on the Use of IT by Members and the WLGA Social Media Guidance be received for information; and
- (b) That the WLGA Social Media Guidance be endorsed and recommended to all Councillors.

52. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were three members of the public in attendance.

The meeting commenced at 6.30 p.m. and ended at 7.50 p.m.

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **STANDARDS COMMITTEE**
DATE: **MONDAY, 13 APRIL 2015**
REPORT BY: **MONITORING OFFICER**
SUBJECT: **THE ADJUDICATION PANEL FOR WALES ANNUAL REPORT 2013-2014**

1.00 PURPOSE OF REPORT

1.01 For the committee to consider the annual report of the Adjudication Panel for Wales (APW) for the year 2013-14.

2.00 BACKGROUND

2.01 The APW is an independent tribunal set up to determine alleged breaches by elected and co-opted members of Welsh Councils, Fire and National Park Authorities, of their authority's statutory Code of Conduct. The APW was established under Part III of the Local Government Act (LGA) 2000 and has two statutory functions:-

- To form case or interim case tribunals to consider reports from the Ombudsman following the investigation of allegations that a Member has failed to comply with their authority's Code of Conduct; and
- To consider appeals from Members against the decisions of local authority Standards Committees that they have breached the Code of Conduct.

2.02 The APW's annual report for 2013-14 is attached as Appendix 1. In the year covered by the report one case was referred to the APW by the Public Services Ombudsman for Wales. It also dealt with a further two references carried over from the previous year. No appeals were made to the APW during the year, however it dealt with three appeals carried over from the previous reporting year. Graph 2.1 in Appendix 1 shows the reduction in the number of references and appeals received in 2013-14 compared to previous years.

3.00 CONSIDERATIONS

3.01 Graph 2.5 in Appendix 1 shows that the three most common type of breach over the last 5 years related to:-

- Failure to show respect/equalities/bullying
- Bringing the office/authority into disrepute

- Failure to disclose an interest and/or withdraw.

This graph shows that the various other categories of breach are rare.

3.02 During the year the APW determined three cases including the two carried over from the previous year and issued decisions on three appeals carried over from the previous year. These six cases are each summarised in the annual report. The first of those relating to a former member of this Council has previously been reported to the committee. Each of the six cases were found to amount to breaches of the Members' Code with the facts constituting a breach being different in each case.

3.03 Due to the small number of cases and the differing facts in each case it is considered difficult to draw from the report any common themes that the committee needs to consider. The committee may consider it appropriate to circulate a copy of the report to all Members and co-opted members for their information.

4.00 RECOMMENDATIONS

4.01 For the committee to consider the APW's annual report for 2013-14 and determine any appropriate action to be taken as a result.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a result of this report.

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 None as a result of this report.

12.00 APPENDICES

12.01 Appendix 1 – APW annual report for 2013-2014

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

None

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Telephone: 01352 702304
Email: peter.j.evans@flintshire.gov.uk

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PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

Adjudication Panel for Wales

Annual Report

2013 – 2014

January 2015

OGL

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Foreword

By the President J Peter Davies

This is my eleventh annual report as President of the Adjudication Panel for Wales (“APW”), which covers the period April 2013 to March 2014. I hope you find the report informative and user friendly.

We aim to ensure that the tribunal serves the interests of all those in Wales by upholding standards in public life and dealing with cases referred by the Public Services Ombudsman for Wales (“PSOW”) and appeals made against the determinations of standards committees, efficiently and effectively. We make every effort to ensure that all those involved in our proceedings are satisfied that the disputes have been adjudicated fairly within as short a time as is reasonable.

As you can see from the statistics set out in the report, this reporting year has been quiet, with only one case being referred to the panel by the PSOW. However, we have adjudicated upon a further two references from PSOW and three appeals against the determination of standards committees that were carried over from the previous reporting year.

In November, the APW held its annual seminar which provided useful updates and training on current issues and gave the members an opportunity to discuss their experiences on the cases that had been before them.

We welcome any comments on our work. If you would like to get in touch with us, please contact the tribunal secretariat, details of which can be found on page 7 of this report.



Section I – About Us

In this section:

- **Background**
- **Overview**
- **Members of the Tribunal**
- **Appointments**
- **Training and Appraisal**
- **Contacting the Tribunal**

Background

The Adjudication Panel for Wales is an independent tribunal set up to determine alleged breaches by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities, against their authority's statutory Code of Conduct.

The Adjudication Panel for Wales was established under Part III of the Local Government Act 2000.

The Adjudication Panel has two statutory functions:

- to form case or interim case tribunals to consider reports from the Ombudsman following the investigation of allegations that a member has failed to comply with their authority's code of conduct; and
- to consider appeals from members against the decisions of local authority standards committees that they have breached the code of conduct.

Overview

The overriding aim of the Adjudication Panel is to:

- provide a high performing, cost effective customer service for tribunal users and its members,
- ensure that all aspects of the tribunal's work are administered in such a way as to achieve fair, independent and timely adjudications, and
- operate within the legislative framework applicable in Wales.

The tribunal is committed to providing an equally high performance service for both Welsh and English speakers who use the tribunal.

Legislation governing the tribunal's procedures are:

- The Local Government Act 2000,
- The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001, and
- Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001.

At a tribunal hearing, the tribunal panel is usually composed of a legally qualified chairperson, plus two others. This may be varied at the President of the Adjudication Panel's discretion. Tribunal hearings will normally be held in public except where the tribunal considers that publicity would prejudice the interests of justice, or where the respondent or appellant agrees that the allegations may be dealt with by way of written representations. There may be other reasons from time to time for not holding a hearing, or part of a hearing, in public. Hearings will usually take place in the relevant authority's area. Hearing arrangements take account of any special requirements of those attending, such as wheelchair access, interpreter, hearing assistance etc. The person who is the subject of the allegations is entitled to give evidence and call witnesses.

Details of upcoming tribunals and tribunal hearings and tribunal decisions are published on the Adjudication Panel's website and in the local press as appropriate.

Decisions of interim case tribunals and case tribunals established by the Adjudication Panel can be appealed to the High Court. Permission to appeal must be sought initially from the High Court.

There is no right of appeal against the decisions of appeal tribunals, but, as a public body, the Adjudication Panel and its tribunals are subject to judicial review.

Full information and guidance about the tribunal and its procedures, are provided on the Adjudication Panel's website. Alternatively please contact the tribunal secretariat for further information or if you would like to receive the tribunal's publications in a different format.

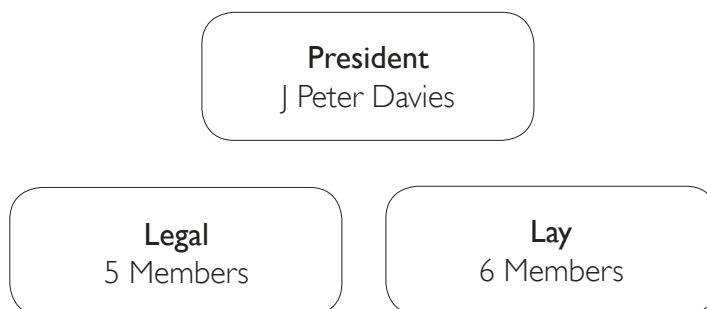
Members of the Tribunal

Welsh Ministers are responsible for making the appointment and re-appointment of the President, legal and lay members. Appointments are made following the advertisement of vacancies and competitive interview by a panel convened by the Welsh Government.

President	The President has judicial responsibility for the tribunal and its members.
Legal members	Legal members are lawyers and have responsibility for conducting proceedings at hearings and advising the tribunal on matters of law. Legal members write tribunal decisions and give directions where necessary.
Lay members	Lay members have a wide range of knowledge and experience relevant to the work of the tribunal.
Secretariat	The day to day administration is largely delegated to the tribunal secretariat who deal with all the preliminary paperwork and the processing of applications to the tribunal. The secretariat consults the President and/or legal members on any legal points arising during the preliminary pre-hearing stages of the proceedings and passes on any rulings and directions in writing to the parties. The secretariat provides a point of contact for the tribunal members and tribunal users and attends all tribunal hearings to ensure the efficient running of proceedings.

Section I – About Us

Adjudication Panel for Wales



Appointments

There were no new appointments to the Adjudication Panel for Wales during the reporting period.

Training and Appraisal

A training seminar was held during November 2013. A regular programme of performance appraisal for tribunal members has been completed over previous years. It is anticipated that the next round of performance appraisal for tribunal members will start during the course of the 2014/15 year.

Contacting the Tribunal

Contact details for APW are as follows:

Tribunal Address:	Adjudication Panel for Wales Government Buildings Spa Road East Llandrindod Wells Powys LD1 5HA
Tribunal Helpline:	01597 829805
Tribunal Fax:	01597 829801
Tribunal E-mail:	adjudication.panel@wales.gsi.gov.uk

Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Summary of Case Tribunals
- Summary of Appeal Tribunals
- Hearings
- Onward appeals
- Achievement against key performance indicators
- Complaints

Numbers and Statistics

A Tribunal year runs from April to March. The following statistics are collated:

- number of references and appeals received and registered;
- outcome of references and appeals;
- number of breaches by type.

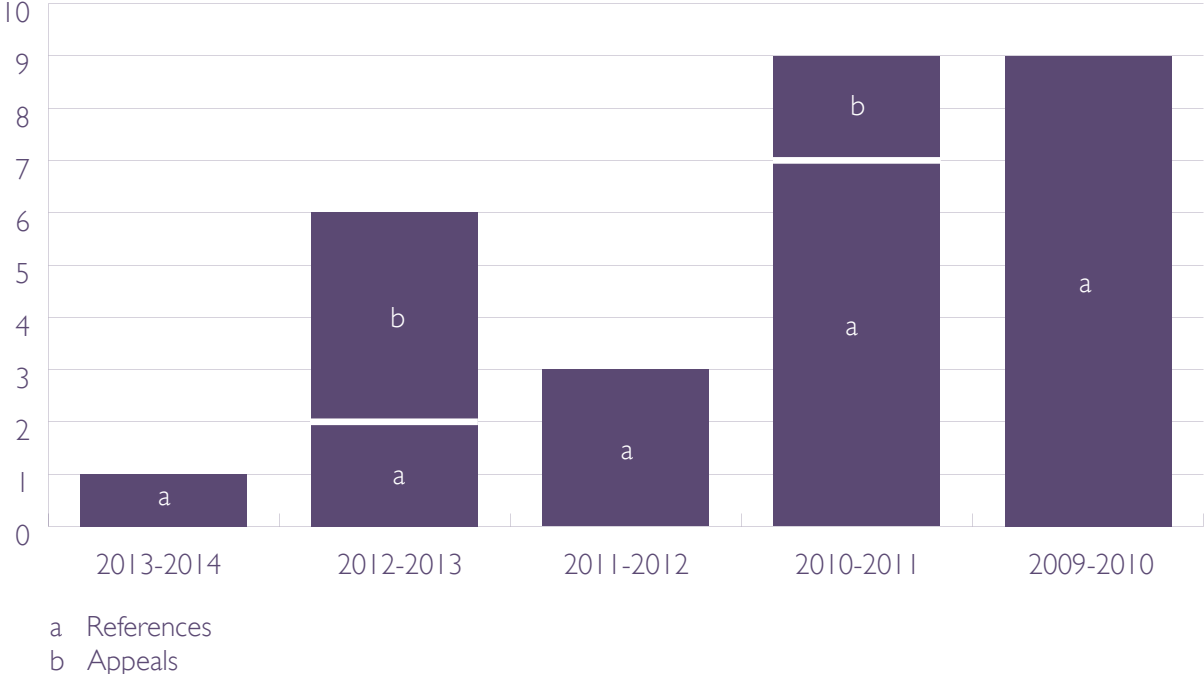
Number of references and appeals received and registered April 2013 – March 2014

In the period April 2013 to March 2014 one case was referred to the Adjudication Panel by the Public Services Ombudsman for Wales. We also dealt with a further two references carried over from the 2012-2013 reporting year.

No appeals were made to the Adjudication Panel during this period; however we dealt with three appeals carried over from the previous reporting year.

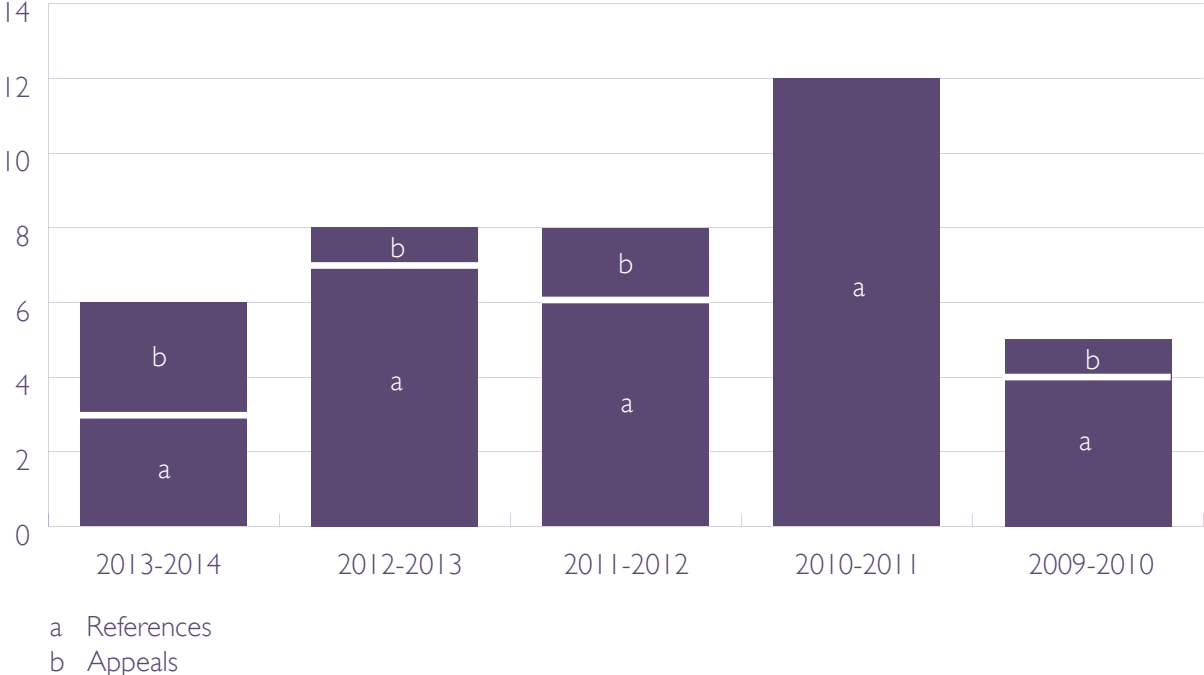
Graph 2.1 Number of references and appeals received and registered by year April 2009 – March 2014

The chart below shows the number of references and appeals received and registered by the Adjudication Panel over the last 5 years.



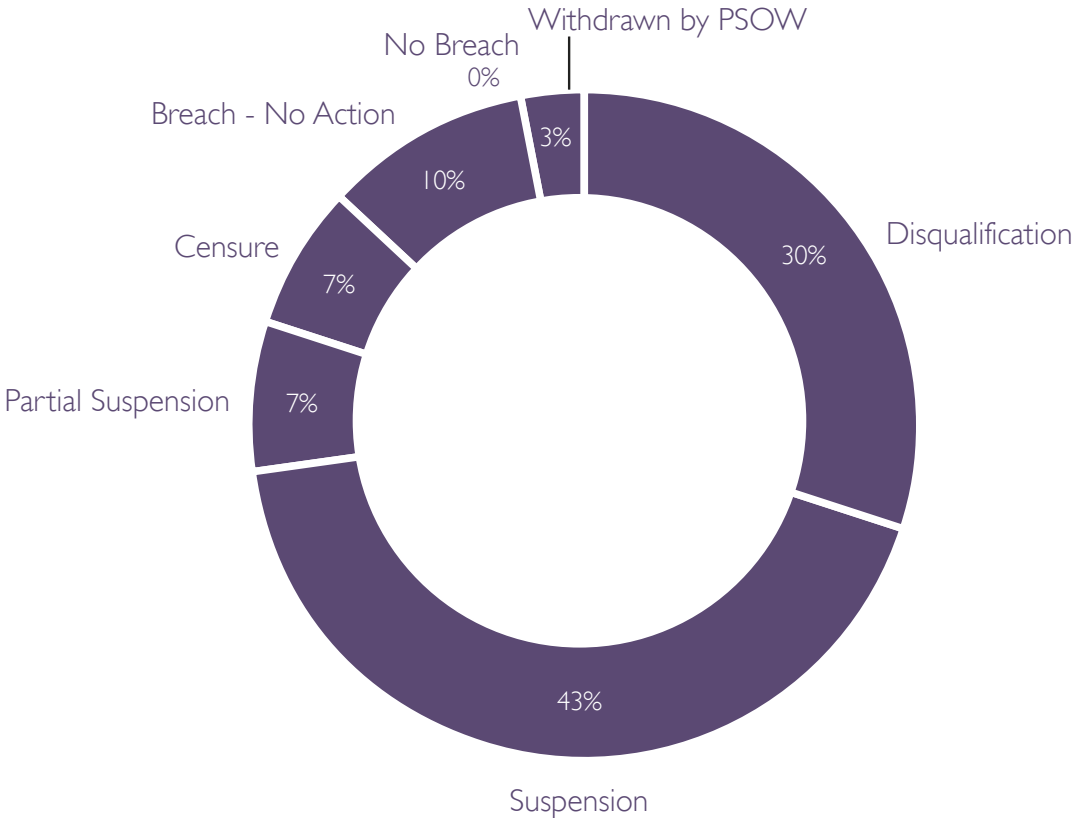
Graph 2.2 Number of references and appeals decided by year April 2009 – March 2014

The chart below shows the number of references and appeals decided over the last 5 years.

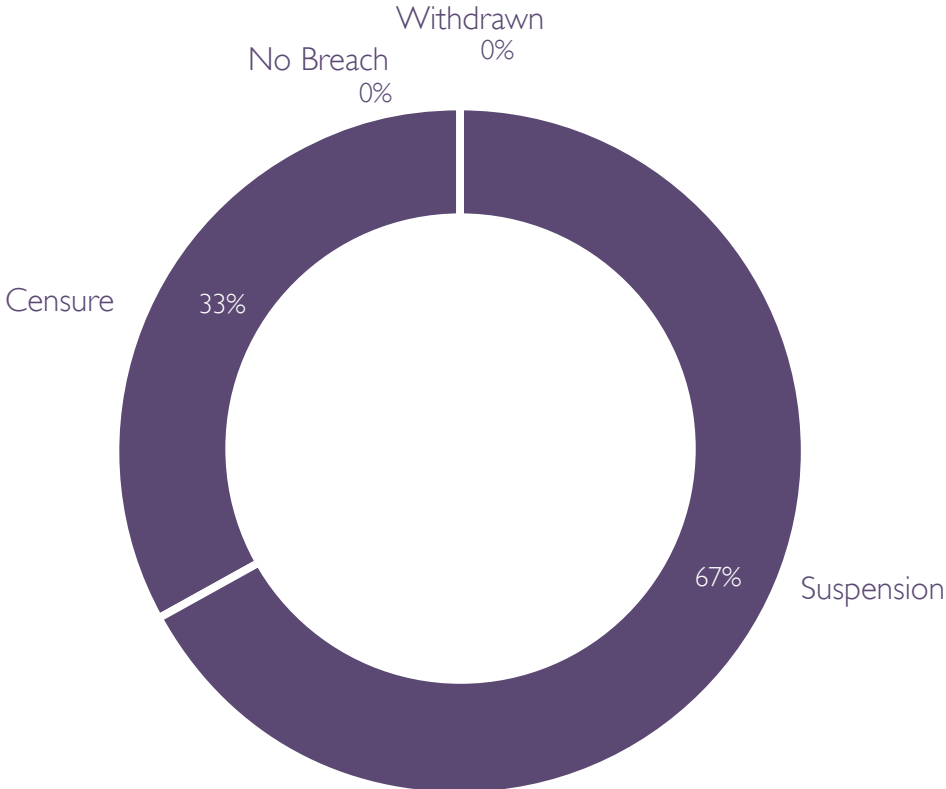


Graphs 2.3 and 2.4 Outcomes of references and appeals April 2009 – March 2014

The chart below shows the outcome of references decided by the Adjudication Panel over the last 5 years.

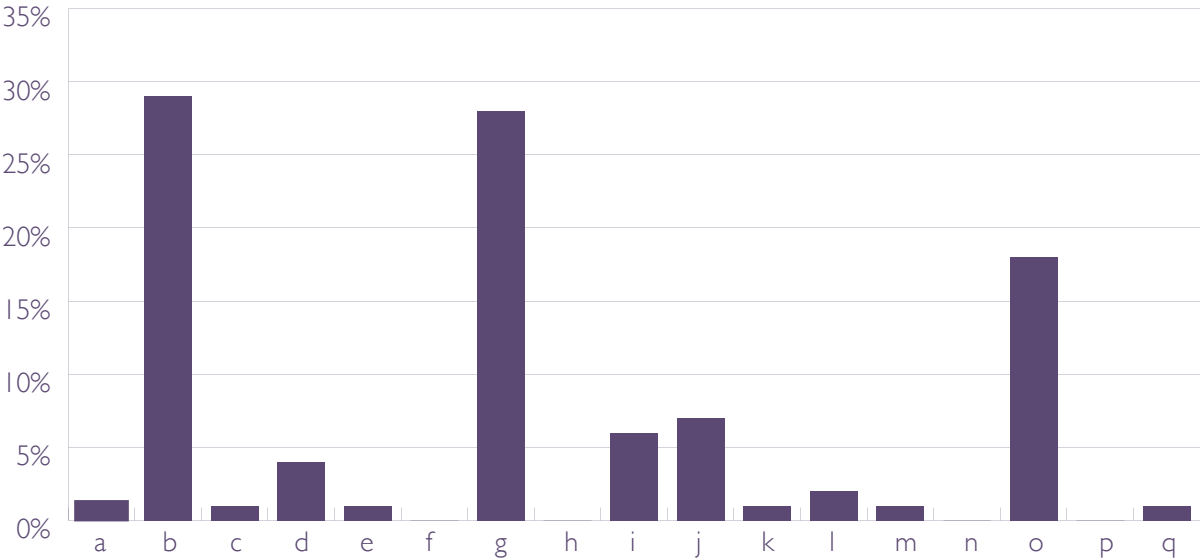


The chart below shows the outcome of appeals decided by the Adjudication Panel over the last 5 years.



Graph 2.5 Number of breaches by type April 2009 – March 2014

The chart below show the number of breaches found by type of breach for the last 5 years.



- a Other body's code
- b Failure to show respect/equality/bullying
- c Compromising the impartiality of employee
- d Disclosing confidential information
- e Withholding information
- f Committing a criminal offence
- g Bringing office/authority into disrepute
- h Vexacious or malicious complaints
- i Failure to co-operate with Ombudsman
- j Misuse of position
- k Misuse of authority's resources
- l Failure to reach decisions on merit/in the public interest
- m Failure to have regard to officer advice
- n Failure to lead by example (local provision)
- o Failure to disclose an interest and/or withdraw
- p Failure to have regard to standards committee advice
- q Failure to observe the rules for claiming expenses

Summary of Case Tribunals

The Public Services Ombudsman for Wales referred one case to the Panel during 2013-14 and two cases were carried over from the previous year. Summaries of the three cases determined by the Panel during the year appear below.

APW/005/2010-011/CT

Flintshire County Council

The allegations were that the councillor had breached Flintshire County Council's Code of Conduct by failing to show respect and consideration for officers of the Council; using bullying or harassing behaviour; attempting to compromise the impartiality of officers and, in so doing, conducting himself in a manner likely to bring his office or the Council into disrepute.

The incidents complained of related to the councillor's conduct in relation to a People and Performance Overview and Scrutiny Committee Meeting, an application for mutual exchange of two council houses, a meeting arranged by Senior Sheltered Housing Officers, a Director of Flintshire County Council, prior, during and subsequent to a Visioning Day, comments concerning a Director of Flintshire County Council and comments to a senior officer also concerning the Director of Flintshire County Council, a meeting with Officers of the Authority relating to housing allocation matters, a meeting of the Community Housing Overview and Scrutiny Committee, the Head of Planning appointment process and selection meetings, the Head of Housing appointment process and selection meetings and a Homelessness Prevention Interview.

The Case Tribunal found by unanimous decision that the councillor failed to comply with Flintshire County Council's Code of Conduct as follows:

2001 Code of Conduct

Conduct towards officers of the Council at a meeting of the People Performance Overview and Scrutiny Committee (paragraph 4(a) - Failure to show respect and consideration for others).

Conduct relating to a proposed mutual exchange by Council housing tenants (paragraphs 4(a) and 4(b) – conduct which compromises, or which is likely to compromise, the impartiality of the authority's employees).

Writing an inappropriate letter to a Council housing tenant (paragraphs 4(a) and 6(1)(b) – bringing the office of member or the authority into disrepute).

2008 Code of Conduct

Conduct towards an officer of the Council prior to a Sheltered Housing Visioning Day (paragraph 4(b) - Failure to show respect and consideration for others; and paragraph 4(c) – Using bullying behaviour or harassing any person).

Making inappropriate comments about an officer of the Council (paragraph 4(b)).

Conduct towards an officer of the Council at a meeting on (paragraphs 4(b) and 4(c)).

Section 2 – Performance and Progress

Conduct towards officers of the Council at a meeting on 18 December 2008 and at a homelessness interview on 25 February 2009 (paragraph 4(b)).

Conduct towards officers of the Council at a Head of Housing selection meeting on 12 February 2009 (paragraph 4(b)).

Conduct towards officers of the Council at Head of Planning selection meetings (paragraphs 4(b) and 4(c)).

The Case Tribunal found that the councillor did not breach the Code of Conduct as follows:

2001 Code of Conduct

Comments made about the Council's Adult Social Care Directorate at a meeting of the People Performance Overview and Scrutiny (paragraph 4(a)).

Writing an inappropriate letter to a Council housing tenant (paragraph 7(a) – using position improperly to confer on, or secure, for any person ...an advantage or disadvantage).

2008 Code of Conduct

Conduct towards an officer of the Council at a Sheltered Housing Visioning Day (paragraphs 4(b), 4(c) and 6(1)(a - bringing the office of member or the authority into disrepute).

Comments made about an officer of the Council (paragraph 4(b)).

Conduct towards an officer of the Council at a meeting (paragraph 4(d) – conduct which compromises, or is likely to compromise, the impartiality of those who work for the Council).

Conduct towards officers of the Council at Head of Housing selection meetings on 18 and 19 February 2009 (paragraphs 4(b) and 4(c)).

Conduct towards officers of the Council at a meeting of the Community and Housing Overview and Scrutiny Committee (paragraphs 4(b) and 4(c)).

The Case Tribunal concluded by unanimous decision that the councillor should be disqualified for two years and six months from being or becoming a member.

The Order made by the High Court of 20 August 2013 to stay the disqualification imposed by the Case Tribunal on 19 July 2013 has been rescinded by the High Court by Order dated 5 September 2013.

The Case Tribunal decision was appealed to the High Court. The High Court dismissed the appeal in respect of the case tribunal's findings on breach, save for three findings of breach that were quashed. The High Court reduced the sanction from a disqualification of two and a half years to eighteen months – Ref: [2014] EWHC 1504 (Admin).

The case can be read on the British and Irish Legal Institute website.

APW/008/2012-013/CT

Ceredigion County Council

It was alleged that the councillor had over-claimed mileage expenses over a period of 11 years. In 2010, a Council investigation found that the councillor had over-claimed expenses as a Member and as Chairman of the Council. The councillor repaid the money to the Council.

The Case Tribunal considered all the facts of the case and in particular the fact that the councillor had on demand, promptly repaid over-claimed expenses. The Case Tribunal also took into account the fact that the Council's procedures during the relevant period relating to councillors' expenses had on its own admission fallen short of the standard the public is entitled to expect.

The Case Tribunal concluded by unanimous decision that the councillor should be suspended for three months from being or becoming a member of Ceredigion County Council or of any other relevant authority within the meaning of the Local Government Act 2000.

APW/001/2013-014/CT

Llandrindod Wells Town Council

It was alleged that the councillor pursued a course of conduct towards the complainant which would amount to harassment. The councillor conducted a survey of members of the public which included a description of events which appeared to falsely accuse the complainant of committing a sexual offence against a minor; which in turn caused significant reputational damage to the complainant and forced them to speak publically about a historic private matter.

This matter and the subsequent Police Information notice issued to the councillor by the police were widely reported in the local press. The councillor indicated that he conducted the survey because he felt the complainant had breached the code of conduct, however he did not report the breach to the PSOW. The councillor resigned from his post and refused to engage in the investigation process.

The Case Tribunal considered all the facts of the case. They noted that the councillor had only been a town councillor for five months but had received training on the Code and would have been aware of his responsibilities. They were particularly concerned that the former councillor had persisted in a course of conduct, despite being provided with clear advice from the Monitoring Officer and the Police that he had no justification or reasonable basis to pursue the complainant. His actions were premeditated, and despite being warned twice by the police he still continued to carry out his survey. During the course of the subsequent investigation he failed to cooperate and has never apologised or shown any understanding of the possible consequences of his actions.

The Case Tribunal concluded by unanimous decision that the former town councillor should be disqualified for three years from being or becoming a member of Llandrindod Wells Town Council or of any other relevant authority within the meaning of the Local Government Act 2000.

Summary of Appeal Tribunals

There were three appeal tribunal hearings during the reporting year. Summaries of the three cases determined by the Panel appear below.

APW/009/2012-013/AT

Mumbles Community Council

The sub committee found that the councillor's conduct in relation to misleading statements he had made about his assets to an Employment Tribunal amounted to a breach of paragraph 6(1)(a) of the Code in that it had brought his office as Councillor and Mumbles Community Council into disrepute.

The councillor submitted that he had not misled the Employment Tribunal and did not accept the findings that had been made. He repeated his submissions that he did not consider that the Code applied to conduct in his private capacity.

The councillor submitted that he had never had any adverse comment about the matter and he had been re-elected. The councillor stated that he could not see how he had brought the authority or office into disrepute.

It was contended that a councillor's behaviour is subject to greater scrutiny and that the councillor's conduct could have been seen to have been dishonest and deceitful by anyone reading the articles. The article mentioned that the councillor was a Community Councillor in the Mumbles and this connection had a damaging effect on the reputation of that authority. The Ombudsman's representative submitted that the councillor was obliged to abide by the Code and should have taken steps to familiarise himself with his obligations.

The Tribunal considered that the findings made by the Employment Tribunal that the councillor had failed to disclose assets and the subsequent article in the South Wales Evening Post was liable to bring the office of Community Councillor and Mumbles Community Council into disrepute.

The Tribunal did not accept the councillor's submissions that the Code did not apply in these circumstances. The document presented by the councillor at the hearing made this position clear and referred to the Code of Conduct 2008 and when the Code applies. Page 4 of that document explicitly stated that in relation to conduct liable to bring the office or authority into disrepute the Code applies at all times. The Tribunal did not consider that the councillor should have been in any doubt about what was required of him. The Tribunal made a decision as a preliminary issue that the Code was engaged.

The Appeal Tribunal accordingly decided by unanimous decision to endorse the determination of the Standards Committee that the councillor had breached Mumbles Community Council's Code of Conduct.

APW/004/2012-013/AT

Pentyrch Community Council

The allegations were that the councillor had breached Pentyrch Community Council's Code of Conduct by failing to show respect and consideration for others; using bullying behaviour and harassing another person; and failing to declare personal and prejudicial interests in relation to matters before the Council.

In relation to sanction the councillor submitted that he was not the only party to blame here; the clerk and the complainant had demonstrated "a high handed and high and mighty attitude". He submitted, if he was at fault he would accept so, but felt the clerk and the complainant should accept responsibility as well. He no longer wished to serve and is no longer a member.

The Appeal Tribunal found by unanimous decision that by his actions the councillor has breached paragraphs 4(b), 4(c), 11(1) and 14(1)(a) of the Code of Conduct and unanimously endorses the decision of the Standards Committee that the councillor should be censured.

APW/006/2012-013/AT

Gwynedd Council

An appeal was received against the determination of the standards committee that the councillor had breached Gwynedd Council's Code of Conduct by posting unfounded allegations on his blog that the complainant intended to retire soon, as headmaster, and stand for election to the Council in a seat held by another councillor.

The complainant had stated that the allegations were untrue and had complained that the councillor was in breach of paragraph 6(1)(a) of the Code of Conduct (bringing the office of councillor or the authority into disrepute) by making unfounded allegations against a person who was on the Council's payroll and in breach of paragraph 7(a) (using or attempting to use the position of councillor to create a disadvantage for another person) by making unfounded comments which had the potential to put the complainant at a substantial disadvantage professionally.

It is noteworthy that the Ombudsman had encountered severe difficulties during the course of his investigation to elicit responses or timely responses from the councillor. Even taking into account the fact that the councillor had unfortunately suffered flooding at his home which he alleged to have affected his ability to review his papers, his willingness to respond or respond in a timely manner to requests and correspondence sent to him in respect of the complaint against him and its investigation, is characterised by what can only be regarded as a scant or deliberate disregard for the process.

The Appeal Tribunal concluded by unanimous decision that the councillor's appeal should be dismissed. The Appeal Tribunal was satisfied that the grounds of appeal submitted by the councillor were without merit. The comments on the blog were untrue and unfounded and were personal remarks against the complainant and not political ones. The comments related to the complainant's employment and could have been damaging for him in terms of his relationship with his employer and those in the school where he worked.

Section 2 – Performance and Progress

The Appeal Tribunal concluded by unanimous decision that the decision of the Standards Committee should be upheld. The councillor should be suspended for three months from being a member of Gwynedd Council. Further, he should as requested by the Standards Committee, apologise to the complainant and receive training in the Code of Conduct. The Appeal Tribunal also recommends that he should receive training on the WLGA Social Media: A guide for Councillors issued in August 2013.

Further information

Copies of all decisions made by case, interim case and appeal tribunals are available to view on the Adjudication Panel for Wales' website at the following address:
www.apw.wales.gov.uk

Hearings

Between April 2013 and March 2014, three referrals from the Public Services Ombudsman for Wales and three appeals against the determination of standards committees, proceeded to tribunal hearing. The total number of tribunal hearing days for this period are twelve days (of which six days were in respect of a single complex tribunal case).

Onward appeals

Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal to the High Court can be made on limited grounds. Over the period of this report, one application for permission was made and granted.

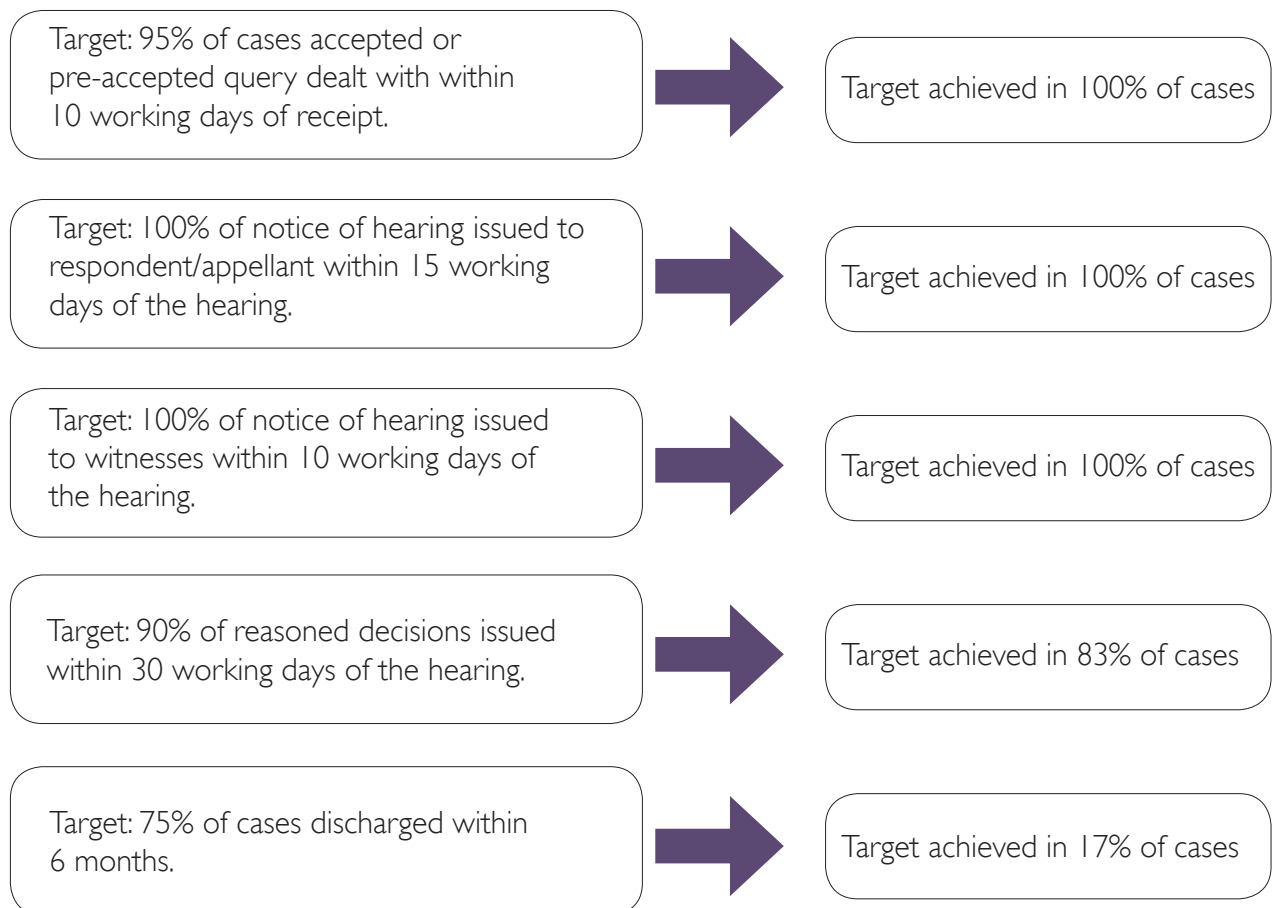
Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our work; the efficiency of our service and the quality of service through customer satisfaction.

To measure the efficiency of our service, we have a series of primary performance indicators based on the time taken to process a case – from receipt to the Hearing or disposal.

To measure customer satisfaction, we used an indicator that is derived from periodic tribunal user surveys.

Efficiency of our service



Complaints

The tribunal received no formal complaints during the course of the reporting year.

Section 3 – Our Customers

In this section:

- **Tribunal user satisfaction survey**

Tribunal user satisfaction survey

The tribunal secretariat strives to improve tribunal user service delivery and aims to put our users at the centre of everything we do.

The tribunal secretariat has recently established a tribunal user satisfaction survey. The survey results will enable us to gain a better understanding of our users' needs and give us a valuable insight into what the tribunal secretariat is doing well, as well as highlighting those areas where the tribunal secretariat needs to improve.

The survey was launched at the end of the reporting period, with four surveys having been issued. As yet we not received any completed forms. A summary of the feedback received will be published in future reports.

Section 4 – Business Priorities

In this section:

- **Business Priorities for 2014-2015**

It is important that the Tribunal continues to develop in order to deliver the best possible service for our users. The Tribunal will build on its achievements by focussing on business priorities and our commitment to our users.

Business Priorities 2014-2015:

- publish and maintain a new website for the tribunal and monitor stakeholder feedback on the content of the website,
- plan and deliver an all members training conference,
- implement a new round of performance appraisal for tribunal members, and
- continue to deliver a high performing service, ensuring key performance indicators are met and customer satisfaction surveys are undertaken and monitored.

Section 5 – Expenditure

In this section:

- Expenditure for 2013-2014

Expenditure for 2013 – 2014

Members fees and expenses	£50,000
Venue costs	£12,000
Publishing costs (tribunal decisions)	£16,000
Audio recordings, telephoning conferencing and transcriptions costs (tribunal hearings)	£6,000
Legal costs	£2,000
TOTAL	£86,000

Rounded to nearest £1,000

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **STANDARDS COMMITTEE**
DATE: **MONDAY, 13 APRIL 2015**
REPORT BY: **CHIEF OFFICER, GOVERNANCE**
SUBJECT: **VACANCY ON THE STANDARDS COMMITTEE**

1.00 **PURPOSE OF REPORT**

1.01 To approve the process for filling the vacancy on the committee.

2.00 **BACKGROUND**

2.01 The Committee has had a vacancy for an independent Member since the previous Chair retired in June 2014. The vacancy was being held open to enable a shared recruitment process with Denbighshire County Council, who had a forthcoming vacancy and were initially keen to share cost and good practice.

2.02 DCC have recently started their own vacancy without seeking to share the recruitment process. It is not now possible to share that appointment due to the legislative process that must be followed.

2.03 Wrexham CBC will have 2 vacancies arising towards the end of the calendar year. They are looking to advertise in July and interview in September. They would be willing to share the recruitment process though it is not possible to hold joint interviews and though it is possible that they would want to make a joint appointment. More detail will be given at the meeting.

3.00 **CONSIDERATIONS**

3.01 The legislative process requires an advert to be placed in 2 newspapers circulating in our area containing the criteria for appointment. There must be a recruitment panel consisting of no more than 5 members, 1 of whom must be a community councillor and 1 who must be a lay person. This panel must make recommendations to full Council.

3.02 I would recommend that the appointment panel consist of:

- the Chair of Council
- the Committee Chair
- the Community Council representative
- Graham Binnie, lay person

- a Councillor member of this Committee.

3.03 If Wrexham are interested in sharing the recruitment costs then shared criteria for appointment could be developed. These would be based on those attached at Appendix 1 which were used by this Council last time.

4.00 RECOMMENDATIONS

4.01 That the Chief Officer Governance advertises to fill the vacancy on the Standards Committee and shares as much of that process with WCBC as possible.

4.02 That a panel of the following consider applications and makes recommendations to Full Council for the appointment of any suitable candidate:

- the Chair of Council
- the Committee Chair
- the Community Council representative
- Graham Binnie, lay person
- a Councillor member of this Committee.

5.00 FINANCIAL IMPLICATIONS

5.01 The Council must advertise the vacancy in 2 or more newspapers circulating in its area. Last time this cost approximately £4,000

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 The panel makes recommendations to Full Council which will make the final decision.

11.00 CONSULTATION UNDERTAKEN

11.01 None.

12.00 APPENDICES

12.01 Appendix A – criteria for appointment.

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

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**APPOINTMENT OF
INDEPENDENT MEMBERS
TO THE STANDARDS COMMITTEE OF
FLINTSHIRE COUNTY COUNCIL**

Under legislation the following people are not eligible to serve on the committee:

- A member or officer of Flintshire County Council or another County Council, County Borough Council, National Park Authority, Fire Authority or Community Council.
- The spouse or partner of a member or officer of Flintshire County Council or another County Council, County Borough Council, National Park Authority, Fire Authority or Community Council.
- A former member/officer or spouse/partner of a former member/officer of Flintshire's predecessor Councils (ie. Clwyd County Council, Alyn & Deeside District Council, Delyn Borough Council)

Prospective independent members 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
- able to meet the time commitment involved. Some flexibility is required as meetings may be held irregularly or at short notice.

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FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME

Date of Meeting	Topic	Notes/Decision/Action
April 2015	<ul style="list-style-type: none"> • Adjudication Panel for Wales Annual Report • Vacancy on the Standards Committee • Training 	<p>Role of the Ombudsman regarding maladministration</p> <p><u>Training for future meetings:</u></p> <ul style="list-style-type: none"> • Customer Services Policy • In response to a suggestion from Mr. Kenneth Molyneux, a future training session would be scheduled to clarify the Social Services complaints process, including the different arrangements in respect of looked after children
May 2015	<ul style="list-style-type: none"> • North Wales Standards Conference 	

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