



Gwasanaeth Democraidd
Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Cyfarfod / Meeting

PWYLLGOR SAFONAU
STANDARDS COMMITTEE

Dyddiad ac Amser / Date and Time

10.30am, DYDD MAWRTH, 27 TACHWEDD, 2012

10.30am, TUESDAY, 27 NOVEMBER, 2012

Lleoliad / Location

Ystafell Dwyryd,
Canolfan Gyswilt / Contact Centre,
Penrhyndeudraeth

Pwynt Cyswilt / Contact Point

Eirian Roberts

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Dosbarthwyd/Distributed 19/11/12

**PWYLLGOR SAFONAU
STANDARDS COMMITTEE**

Aelodaeth/Membership

Aelodau Etholedig / Elected Members (3)

Y Cynghorwyr/Councillors
Charles Wyn Jones
Eryl Jones-Williams
Michael Sol Owen

Aelodau Annibynnol / Independent Members (5)

Ms Linda Byrne
Mr Gwilym Ellis Evans
Miss Margaret E Jones
Mr Sam W Soysa
[sedd wag / vacant seat]

Aelod Pwyllgor Cymuned / Community Committee Member (1)

Y Cynghorydd / Councillor David Clay

RHAGLEN

1. YMDDIHEURIADAU

Derbyn unrhyw ymddiheuriadau am absenoldeb.

2. DATGAN BUDDIANT PERSONOL

Derbyn unrhyw ddatganiad o fuddiant personol.

3. MATERION BRYD

Nodi unrhyw eitemau sy'n fater bryd ym marn y Cadeirydd fel y gellir eu hystyried.

4. COFNODION

Bydd y Cadeirydd yn cynnig y dylid llofnodi cofnodion y cyfarfodydd o'r pwyllgor hwn a gynhaliwyd ar y dyddiadau isod fel rhai cywir:-

- (a) 2 Gorffennaf, 2012 (copi yma – papur melyn).
- (b) 26 Medi, 2012 (copi yma – papur glas).

5. FFORWM PWYLLGORAU SAFONAU GOGLEDD CYMRU

Ystyried adroddiad y Swyddog Monitro (copi yma – papur hufen).

6. CYNHADLEDD SAFONAU 2013

Ystyried adroddiad y Swyddog Monitro (copi yma – papur lelog).

7. CANLLAWIAU'R OMBWDSMON

Ystyried adroddiad y Swyddog Monitro (copi yma – papur eog).

8. HONIADAU YN ERBYN AELODAU

Ystyried adroddiad y Swyddog Monitro (copi yma – papur llwyd).

9. RHAGLEN WAITH

Ystyried adroddiad y Swyddog Monitro (copi yma – papur gwyrdd).

10. PROTOCOL RHODDION A LLETYGARWCH AELODAU

Ystyried adroddiad y Swyddog Monitro (copi yma – papur pinc).

11. ADRODDIAD BLYNYDDOL PANEL DYFARNU CYMRU 2011-2012

Ystyried adroddiad y Swyddog Monitro (copi yma – papur melyn).

12. ADRODDIAD BLYNYDDOL YR OMBWDSMON 2011-2012

Ystyried adroddiad y Swyddog Monitro (copi yma – papur glas).

AGENDA

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

The Chairman shall propose that the minutes of the meetings of this committee held on the undermentioned dates be signed as true records:-

(a) 2 July, 2012 (copy herewith – yellow paper).

(b) 26 September, 2012 (copy herewith – blue paper).

5. NORTH WALES STANDARDS COMMITTEES FORUM

To consider the report of the Monitoring Officer (copy herewith - cream paper).

6. STANDARDS CONFERENCE 2013

To consider the report of the Monitoring Officer (copy herewith - lilac paper).

7. THE OMBUDSMAN'S GUIDELINES

To consider the report of the Monitoring Officer (copy herewith - salmon paper).

8. ALLEGATIONS AGAINST MEMBERS

To consider the report of the Monitoring Officer (copy herewith - grey paper).

9. WORK PROGRAMME

To consider the report of the Monitoring Officer (copy herewith - green paper).

10. PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY

To consider the report of the Monitoring Officer (copy herewith – pink paper).

11. ADJUDICATION PANEL FOR WALES – ANNUAL REPORT 2011-2012

To consider the report of the Monitoring Officer (copy herewith - yellow paper).

12. THE OMBUDSMAN'S ANNUAL REPORT – 2011-2012

To consider the report of the Monitoring Officer (copy herewith - blue paper).

Application for a Dispensation

You should use this form to submit an application to Gwynedd Council's Standards Committee for a dispensation, i.e. permission to take part in a discussion even though you have a 'prejudicial interest' under the Members' Code of Conduct. The Committee may grant a dispensation if the circumstances come within one of the paragraphs listed in the Appendix to this form.

1. Name : Councillor Gareth Roberts

Council: Gwynedd

2. What is the item in question?

An application from the National Trust to build a Centre of Excellence for Coastal Tourism in Henfaes Car Park, Aberdaron.

3. What is your interest (i.e. your connection with the matter)?

My connection is that I worked for the National Trust for 12 years from 1985 to 1996; I am at present their tenant here at Cwrt and I have been part of the Team (as a Local Councillor) as well as a representative of the local community which has worked on developing the plan.

4. Why do you believe you should be able to take part in the discussion?

The intention of the development is to create an information centre that would interest people during the summer in bad weather to keep them locally, refer people to sites of special interests such as birds, vegetation, paths, archaeology, geology, views, Enlli, accommodation, cafes, etc. so that the wider community benefits. It is also hoped that by highlighting the varied environmental offerings of the area will be attracted to visitors outside of the traditional window. There is an undertaking not to compete with any existing local businesses, and if there should be a commercial venture it would be an addition to the present provision and not in competition. Therefore my argument is that I am only operating for the general benefit of the area and not for any personal benefit to myself or my family and that I wish to have the Standards Committee's dispensation to enable me to speak on behalf of the community.

5. Which paragraph(s) is/are relevant in your view? (see Appendix) (d)

6. Are you applying for a dispensation to speak and vote or to speak only?

Speaking as a Local Member and not as a Member of the Committee – without a vote.

7. Are you requesting a dispensation for a particular meeting (if so provide details) or a general one so that you can take part whenever the matters arises?

The application from the National Trust to build a Centre of Excellence for Coastal Tourism in Henfaes Car Park, Aberdaron.

Signed :



Dated 21st November, 2012.

Application for Dispensation (Appendix)

Circumstances in which dispensations may be granted

“2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

(a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;

(b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;

(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;

(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;

(e) the interest is common to the member and a significant proportion of the general public;

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;

(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or

(i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.”

(The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001)

STANDARDS COMMITTEE, 02.07.12

Present: -

Elected Members:- Councillors Charles Wyn Jones, Eryl Jones-Williams and Michael Sol Owen.

Independent Members:- Mr Gwilym Ellis Evans (Chairman), Ms Linda Byrne, Miss Margaret E.Jones and Mr Sam Soysa.

Community Committee Member:- Mr David Clay.

Also Present: Dilys Phillips (Monitoring Officer), Siôn Huws (Propriety Officer) and Eirian Roberts (Members Support and Scrutiny Officer).

Apology: Mr Gwyn Williams (Independent Member).

1. ELECTION OF CHAIRMAN

RESOLVED to elect Mr Gwilym Ellis Evans as chairman of this committee for whichever is the shortest of the following periods (a) to the end of the term of the current Council or (b) until his term of office comes to an end.

The Chairman welcomed the new members of the committee.

2. ELECTION OF VICE-CHAIRMAN

RESOLVED to elect Mr Sam Soysa as vice-chairman of this committee for whichever is the shortest of the following periods (a) to the end of the term of the current Council or (b) until his term of office comes to an end.

3. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any member present.

4. MINUTES

The Chairman signed the minutes of the previous meeting of this committee, held on 18 April, 2012, as a true record.

5. AN INTRODUCTION TO THE WORK OF THE COMMITTEE

The members received an introduction to the work of the committee by the Monitoring Officer.

An information pack was circulated to the members that included the following documents:-

- A document which explained the committee's terms of reference;

- A copy of the Code of Conduct for Members;
- A leaflet summarising those interests that the councillors were required to declare;
- The Gwynedd Standard;
- The Public Services Ombudsman for Wales Guidelines on the Code of Conduct (which were about to be amended).

The Monitoring Officer explained the contents of the various documents and gave more details on the role and functions of the committee.

She suggested that a work programme should be drawn up in the next meeting of the committee based on the issues the members wished to look at over the next five years and she asked the members to submit their ideas either during that meeting or between that time and the end of summer.

She also noted that the two new independent members were welcome to have a chat with her to go through the Code of Conduct in detail.

The Propriety Officer then gave more details on two aspects of the committee's work, namely considering applications for dispensation and complaints against members.

The Monitoring Officer also referred to the role of the North Wales Standard Committees Chairpersons and Vice-chairpersons Forum.

A member emphasised that all community and town council clerks should receive training on the Code of Conduct. In response the Monitoring Officer noted that she would discuss this with the Society of Town and Community Clerks and would report back at the next meeting.

Mr David Clay was congratulated on being appointed Chairman of Unllais Cymru in Meirionnydd.

6. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following item because of the likely disclosure of exempt information as defined in paragraph 18C, Part 4, Schedule 12A of the Local Government Act 1972. It is noted that this paragraph applies because it concerns the deliberations of the Standards Committee in reaching a decision on a matter referred to it. It is believed that the information should not be disclosed so that the councillor is not prejudiced by any possible publicity of the case before any hearing. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

7. REPORT BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES ON AN INVESTIGATION INTO A COMPLAINT AGAINST COUNCILLOR 'A' OF GWYNEDD COUNCIL

Submitted – the report of the Monitoring Officer asking the committee to consider the Ombudsman's report and to reach a decision in accordance with the requirements of the relevant regulations.

Councillor Charles Wyn Jones asked whether or not he should declare an interest in this item as the mother of the complainant was a close friend of his. He confirmed that he did not know the complainant himself. The Monitoring Officer advised him that his connection

with the complainant was distant enough so as not to be an interest. However, she added that the question of interest was more likely to be raised in the context of the fact that the member was a member of the same political group as the complainant rather than the fact that he was a close friend of his mother, but a member's connection with a specific group did not prevent him from considering applications that were submitted before the committee. Therefore, he did not believe that there was an interest in this case but the member was required to reach his own conclusions on the matter.

Reference was made to the need to amend two errors in the papers, namely:-

(1) Appendix 1 – Procedure for Hearings – Stage 2 of the hearing – Deciding whether the Member has breached the Code of Conduct

It was noted that the third bullet point under the heading "*General Rules of Procedure*" should be corrected to read:-

- The Committee will decide factual *evidence* on the balance of probabilities.

(2) Appendix E – A letter noting the Ombudsman's intention to investigate the complaint.

It was noted that the Welsh version of the letter was dated 17 August, 2011 and the English version was dated 9 August. The Propriety Officer agreed to check which date was correct.

RESOLVED

- (a) **That there is evidence of failure to comply with the Authority's Code of Conduct and that they should proceed to call a special meeting of the Standards Committee to consider and decide on the matter and to authorise the officers to make the necessary arrangements.**
- (b) **That any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the relevant authority's code of conduct.**
- (c) **That an officer places the relevant papers in the hand of the person who is the subject of the investigation.**
- (ch) **That they shall look for a date during September for the hearing, but should this not be possible, the hearing shall be held on 1 October, namely the date that was earmarked for the Standards Committee's next usual meeting.**
- (d) **To invite the Ombudsman to the hearing, although it is not necessary for him to attend.**

The meeting commenced at 11.00am and concluded at 12.20pm

SPECIAL MEETING OF THE STANDARDS COMMITTEE, 26.09.12

Present: -

Elected Member:- Councillor Michael Sol Owen.

Independent Members:- Mr Gwilym Ellis Evans (Chairman), Miss Margaret Jones and Mr Sam Soysa.

Community Committee Member:- Councillor David Clay.

Also present:

Mr Eirwyn Pritchard (Investigating Officer on behalf of the Public Services Ombudsman for Wales).

Gwynedd Council Officers - Dilys Phillips (Monitoring Officer), Siôn Huws (Compliance and Language Manager) and Eirian Roberts (Members' Support and Scrutiny Officer).

Apologies:- Ms Linda Byrne (independent member) and Councillors Charles Wyn Jones and Eryl Jones-Williams (elected members).

1. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any member present.

2. ALLEGATION AGAINST COUNCILLOR AERON MALDWYN JONES, GWYNEDD COUNCIL

The Chairman welcomed everyone to the hearing and then asked everyone to introduce themselves.

The Chairman then explained the nature / format of the hearing.

The Committee considered a report by the Public Services Ombudsman for Wales ("the Ombudsman") regarding alleged breaches of the Code of Conduct for Members of Gwynedd Council by Councillor Aeron Maldwyn Jones, which had been referred to the Standards Committee by the Ombudsman under Section 71(2) of the Local Government Act 2000 for determination.

The Ombudsman had received a complaint, on 17 July 2011, that Councillor Aeron Maldwyn Jones had failed to observe the Code of Conduct for Members of Gwynedd Council ("the Code of Conduct") in that he had on 6 July 2011 posted in his blog unfounded allegations that the complainant intended to retire soon and to 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 Councillor Jones 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.

Councillor Jones did not appear at the hearing and was not represented. The Monitoring Officer explained to the Committee that her secretary had received a telephone call from Councillor Jones the previous afternoon explaining that he would not be attending as he would be at a meeting of the Snowdonia National Park Authority but that he would send a letter to be read at the hearing. By the commencement of the hearing no such letter had reached the Monitoring Officer or the Committee.

The Standards Committee considered whether or not to proceed in the absence of any representations from Councillor Jones. The Committee concluded that Councillor Jones, having been given notice of the date and place of the hearing by letter dated 19 July 2012, had been given ample opportunity to submit representations and that it was not satisfied that he had sufficient reason for failing to do so, either orally or in writing. Accordingly, the Standards Committee decided under regulation 8(4)(a) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 to proceed in the absence of Councillor Jones.

The Standards Committee considered the Monitoring Officer's covering report, the written report of the Ombudsman's investigation and oral submissions from Mr Eirwyn Pritchard, Investigating Officer.

The Committee then withdrew to consider its decision.

After reaching its decision, the Committee reconvened and the Chairman announced that the Standards Committee had decided that Councillor Aeron Maldwyn Jones had failed to comply with the Code of Conduct as follows:-

- (1) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 7(a) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that the comments made by Councillor Jones on his blog that the complainant intended to retire soon and would then stand for another councillor's seat on the Council had the potential to create a serious disadvantage to the complainant. In the absence of any explanation by Councillor Jones as to his reasons for posting the blog it accepted the complainant's evidence to the Ombudsman that the allegations were untrue. It concluded that the posting of these unfounded allegations could create significant difficulties for the complainant who held a post in public service. The Committee took the view that an untrue allegation of an impending retirement could cause serious difficulties for the complainant in the context of his employment as a head teacher.

The Committee gave consideration as to whether the comments fell within the definition of "political expression" within the meaning of Calver, R v The Adjudication Panel for Wales and were protected by the right to freedom of expression. The Committee concluded that the comments did not attract any protection because they were personal, not political. The Committee noted that the allegations referred to the complainant's personal plans, and were untrue.

The Committee also concluded that the blog was Councillor Jones' official blog and that the comments he had made on the blog regarding the complainant had been an attempt to use his position to create a disadvantage for the complainant.

- (2) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 6(1)(a) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that the allegations made by Councillor Jones on his blog were untrue and without foundation. It concluded that the posting of untrue allegations on the blog could reasonably be regarded as conduct which brought the office of councillor into disrepute. It noted that the office of councillor had a certain status in society and that a high standard of conduct was expected from those who held it.

- (3) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 4(b) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that Councillor Jones had failed to show respect and consideration for both the complainant and for the Committee and the ethics process. It found that Councillor Jones had failed to show respect and consideration for the complainant by making unfounded and presumptuous allegations as to his personal life and plans and had published those allegations. The committee noted that the allegations remained on Councillor Jones' blog page at the date of the hearing.

The Committee also found that Councillor Jones had shown disregard to the standards regime and in particular to the Ombudsman and his investigator and to the Committee in that he had failed to respond at all to any of the enquiries made of him during the course of the investigation, had failed to provide any explanation for his conduct, had failed to appear before the committee or to provide any representations. The Committee found that in all Councillor Jones had missed five opportunities to explain his position to the Ombudsman, being two letters with questionnaires enclosed dated 13 October 2011 and 28 November 2011 (the latter of which was sent by recorded delivery and was returned by the post office uncollected), an e-mail sent on 12 January 2012 again with a questionnaire, a request to comment on the draft report and an opportunity to respond to the final report. The Committee further found that Councillor Jones had failed to respond to a request from the Monitoring Officer on 19 July 2012 to complete a pre-hearing questionnaire as part of the Committee's procedure. Finally, it was dissatisfied with the reason given by Councillor Jones for failing to appear at the Committee.

The Committee was left with the impression that Councillor Jones was taking the proceedings lightly and was thereby failing to show due respect and consideration to the Committee, its members, the Ombudsman and his officers.

- (4) The Committee found that Councillor Jones' conduct amounted to a breach of paragraph 6(2) of the Code of Conduct.

The reasons for the Committee's conclusions were as follows:

The Committee found that Councillor Jones had ignored requests from the Ombudsman to respond to formal questions posed during the course of the Ombudsman's investigation. In the absence of any evidence to the contrary, it found that Councillor Jones' action in failing to collect the post which had been sent by recorded delivery was deliberate. The Committee also found that Councillor Jones had failed to respond to a request from the Monitoring Officer to complete a pre-hearing questionnaire, such request having been made for the purposes of facilitating the Committee's procedure.

The Committee found that Councillor Jones' actions were a failure to comply with requests made of him by the Ombudsman and the Monitoring Officer in connection with the investigation and were a breach of the Code of Conduct.

The Committee then withdrew to consider what action to take.

After reaching its decision, the Committee reconvened and the Chairman announced that the Standards Committee had decided that Councillor Aeron Maldwyn Jones should be suspended from being a member of Gwynedd Council for a period of three months. The period of suspension would commence on the day after the expiry of the time allowed to lodge a notice of appeal, as noted below.

The reasons for the Committee's conclusions were as follows:

- (1) This was the second occasion on which Councillor Jones had been referred to the Committee, for a similar breach of the Code of Conduct. On the first occasion (on 30 September 2011) which also involved the posting of untrue allegations on a blog, the Committee had determined that Councillor Jones should be suspended for a month.
- (2) The current breach of the Code of Conduct had occurred on 6 July 2011, after the Ombudsman had issued his final report in relation to the previous breach, albeit before the Committee had determined the matter and issued a sanction.
- (3) Despite the previous finding Councillor Jones had paid scant regard to the standards regime, the requirements of the Code of Conduct and the role of the Committee.
- (4) The Committee had found that on this occasion there were four breaches of the Code of Conduct.
- (5) The Committee's starting point was a suspension for one month. However, it found that the above were aggravating features and, accordingly, considered that a three month suspension was appropriate.

The Committee also resolved:

- (1) That Councillor Jones should remove the relevant page from his blog immediately;
- (2) That Councillor Jones should apologise to the complainant; and
- (3) That Councillor Jones should make himself fully conversant with the Code of Conduct.

The Chairman announced that:-

- (1) Councillor Aeron Maldwyn Jones may appeal against the determination of the Standards Committee to an appeals tribunal drawn from the Adjudication Panel for Wales. The appeal must be instigated by giving notice in writing to the President of the Adjudication Panel within 21 days of receiving this notice of determination. Notice of appeal must specify the grounds for appeal and whether or not the member consents to the appeal being conducted by way of written representations.
- (2) A report on the outcome of the investigation would be published in accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.
- (3) Councillor Aeron Maldwyn Jones, the complainant and the Public Services Ombudsman for Wales would be notified accordingly.

The meeting commenced at 10.00am and concluded at 11.40am.

Committee	Standards Committee
Date :	27 November 2012
Title	North Wales Standards Committees Forum
Author	Monitoring Officer
Action :	For information

Background

1. North Wales Standards Committee Forum was established in 2011, and the Chairman and Vice-chairman of each committee are invited to attend, as well as each authority's monitoring officer.
2. The minutes of the meetings held on 23 April and 17 July 2012 are attached. The minutes of the meeting held on 4 October 2012 have not yet been received.

Recommendation

3. The Committee is asked to note the information

MEETING	STANDARDS COMMITTEE
DATE	27, NOVEMBER, 2012.
TITLE	STANDARDS CONFERENCE 2013
PURPOSE	TO PROVIDE INFORMATION AND RECEIVE FEEDBACK REGARDING THE CONFERENCE.
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER.

1. A decision was made in the Forum of Chairmen and Vice-chairmen of North Wales Standards Committees to take the responsibility for organising the 2013 Standards Conference. The matter has also been discussed amongst the authorities' monitoring officers with an agreement that we will take responsibility jointly for the arrangements.
2. Gwynedd Standards Committee discussed the principle of arranging the conference in the North at its meeting in January 2012 giving general support to the idea. With the intention to hold the conference next April, there is only about five months left to organise it.
3. The monitoring officers have agreed a draft programme which is attached to this report. It must be emphasised that it is only in draft stage at present and that no final arrangements have been made. Despite this, it gives an outline of what is under discussion and what is intended to be held.
4. The committee is asked for their opinion on the draft programme and for any suggestions or other observations that will be of benefit to hold a successful event.

DRAFT

Standards Conference 2013

Date: Friday, 19 April 2013

Time: 10.00 – 4.00

Location: Venue, Llandudno

Strapline: Balancing Rights and Responsibilities

Cost: c. £75 - £80?

Programme: An address by the Ombudsman, an interactive plenary session, two workshops (no panel discussion)

Tentative timings:	10.00 – 10.30	Registration
	10.30 – 10.45	Welcome and introduction
	10.45 – 11.30	Keynote address
	11.30 – 11.45	Tea / Coffee
	11.45 – 12.45	Workshop 1
	12.45 – 13.45	Lunch
	13.45 - 14.30	Plenary session
	14.30 – 14.45	Tea / Coffee
	14.45 – 15.45	Workshop 2
	15.45 – 16.00	Closing remarks

Possible topics for the workshops:

- How to promote standards proactively
- Local dispute resolution procedures
- Town and community council relationship
- Mediation
- Conducting hearings and sanctions
- Dispensations
- Register of interests
- Single purpose authorities?

One of the topics (e.g. the proactive work of standards committees, or local dispute resolution procedures), could be the topic for the plenary session, perhaps with 3 committees giving their experiences.

Others who could contribute (perhaps by leading a workshop?):

- President of the Adjudication Panel
- One Voice Wales
- W.L.G.A.

MEETING	STANDARDS COMMITTEE
DATE	27 NOVEMBER, 2012
TITLE	THE OMBUDSMAN'S GUIDELINES
PURPOSE	SUBMIT AN UPDATE ON DEVELOPMENTS
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER

1. On 17 September the Ombudsman sent a letter to the Chief Executive of every Council following a decision in the High Court on the case of Calver - v- The Adjudication Panel for Wales. I append a copy of the letter to the report. It should be noted that the letter was sent in English only.
2. A copy of the letter was also sent to the Welsh Local Government Association.
3. The thrust of the letter is that the Ombudsman will take a stricter attitude when deciding if an investigation will be held, if it appears that the complaint involves what could be called an expression of political views. To all intents and purposes, he is raising the threshold for commencing an investigation.
4. The Ombudsman has reached this decision as a result of the Calver case. In that case a complaint was made that a member of a community council had made malicious comments about his fellow councillors on a social website. The matter was brought before the Standards Committee and he was reprimanded. He made an appeal to the Adjudication Panel for Wales who agreed that the councillor had breached the Code of Conduct and that the reprimand was an appropriate punishment. The councillor further appealed to the High Court on the grounds that the decision made by the Standards Committee and the Adjudication Panel affected his right to freedom of expression, and he won his case.
5. The High Court's decision explains that the requirements of the Code of Conduct of respect for others must be considered in the context of the human right to freedom of expression, and that the code must be interpreted in accordance with these rights. Given the contents of the councillor's comments, the tradition of robust debate between politicians, that those who offer themselves for a public post are expected to accept an element of lampooning and that politicians are expected to have a thicker skin than others, the court was of the opinion that the decision that the councillor had breached the code in this case was inconsistent with his rights to freedom of expression. The court noted that comments did not have to express a political view as long as they were expressed in the political arena.
6. The Ombudsman's letter caused a degree of uproar amongst members and monitoring officers as some believed that it set the threshold too high in relation to the case. Discussions were held between the Ombudsman and the Local Government Association and he also discussed the letter in a meeting

with the Monitoring Officers of Wales. He agreed that he would be willing to review the wording of his guidelines in light of experience and should other proposals come forward.

7. In Gwynedd the letter was reported upon in the meeting of the Political Group Leaders on 25 September and I reminded them that the Gwynedd Standard dealt with matters that would not necessarily be investigated by the Ombudsman. The Political Leaders agreed that a copy of the Gwynedd Standard should be distributed to all the members once again, and the committee's support is requested in this.
8. The Ombudsman published amendments to these guidelines on the Code of Conduct around the same time as he sent his letter. The amendments include an amendment that was made as a result of the Calver case, but they also deal with matters that had been the subject of discussion prior to the case hearing.
9. One course of action the Ombudsman has taken is to separate the guidelines for members of community councils from the guidelines for members of the County Council. The two sets of guidelines are now separate and some of the town and community councils' guidelines have now been tailored for that level of council.

The other amendments that have been made to the guidelines are as follows:-

Local Resolution Process – The Ombudsman explains his expectation for authorities across Wales to adopt a procedure to resolve complaints by a member against another member locally.

Using a Whip in Scrutiny Committees – Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of a scrutiny committee from voting in a meeting of the committee if, before the meeting, the member has been given a party whip relating to the matter. The Ombudsman notes the evidence that would be needed in order to investigate complaints of acting in breach of this clause.

Interest in Ward Matters – Paragraph 10 (2)(b) of the Code of Conduct states that if a member of the public could reasonably conclude that ward matters have a greater influence on a member when making a decision on behalf of the authority than the interests of the authority as a whole, then that is a personal interest that would need to be disclosed. The Ombudsman offers guidance on how he will interpret this paragraph and notes that he will not adopt a literal interpretation as a matter of course, but that he will base his decision to commence an investigation on the assumption that the paragraph is aimed at individual members exercising executive functions such as in planning committees or licensing committees. Whilst welcoming the fact that the Ombudsman does not take this interpretation literally, more clarity is needed on the guidelines as planning and licensing decisions are not “executive functions”.

Treating People with Respect – Following the decision reached in the Calver case noted above, the guidelines now note that it is unlikely that the Ombudsman will investigate complaints made generally regarding policies or political opponents as councillors need to be more thick skinned when dealing with comments that have a political incentive. They also note that robust and open discussions should be expected with senior officers on political matters.

10. The committee is requested to:

- (a) Note and accept the report.
- (b) Support the proposal to send a copy of the Gwynedd Standard to all of the County Council members.
- (c) Consider what action should be taken to bring the guidelines to the attention of the county and community members.

Note – A full copy of the Ombudsman's guidelines can be seen on the website www.ombudsman-wales.org.uk/en/publications.aspx

Our ref: PT/KS/mm

Ask for: **Katrin Shaw**

Your ref:

☎ 01656 641182

Date: 17 September 2012

✉ Katrin.shaw@ombudsman-wales.org.uk

Mr Harry Thomas
Chief Executive
Gwynedd Council
Council Offices
Shirehall St
Caernarfon
Gwynedd
LL55 1SH

COPY

Dear Mr Thomas

I thought it would be helpful to contact you in the light of a recent decision of the High Court concerning the Code of Conduct for members.¹⁰

As you may be aware a member challenged the findings of the Adjudication Panel for Wales to uphold his Council's Standards Committee's decision to censure him for breaching paragraph 4(b) of the code of conduct by failing to show respect and consideration to his fellow Councillors. The court found that whilst the comments which were posted on a website operated by the member were sarcastic and mocking and the tone ridiculed his fellow Councillors, because the majority of the comments related to the way in which the Council was run and the competence of the Councillors, the comments were "political expression". The ruling found that the Panel took an over-narrow view of what amounts to political expression and no account had been taken of the need for politicians to have "thicker skins". In view of the member's entitlement to freedom of expression, and the fact that the majority of comments were directed at fellow Councillors, the finding of a breach of the Code in this case was a disproportionate interference with the member's rights under Article 10 of the European Convention on Human Rights. The Standards Committee's decision to censure the member was therefore set aside.

The impact of this ruling is that my staff will have to apply a higher threshold when deciding whether to investigate any conduct complained about which may be regarded as being "political expression". I will not therefore investigate such cases where 'political' criticisms are made, regardless of the tone of the exchange.

¹⁰ Calver, R (On the Application Of) v The Adjudication Panel for Wales (Rev 1) [2012] EWHC 1172 (Admin) (03 May 2012).

Allegations of disrespectful behaviour towards officers, particularly those who may hold senior positions, must also be considered in the light of this ruling.

I have today issued my revised Guidance on the Code of Conduct which includes the impact of this ruling and other amendments. It is available on my website www.ombudsman-wales.org.uk.

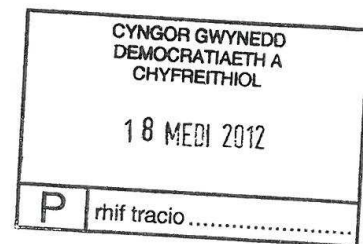
I would be grateful if you would bring this issue to the attention of your members so as to avoid complaints being made which stand no prospect of being investigated in the light of this ruling.

Yours sincerely



Peter Tyndall
Ombudsman

Copy: Monitoring Officer



Committee:	Standards Committee
Date:	27 November 2012
Title:	Allegations against members
Author:	Monitoring Officer
Action:	For information

1. Background

The purpose of this report is to inform the Committee members of the developments, since the last report, in relation to allegations against members. The report is based on the information received from the Ombudsman.

2. Decisions

Case 201100673

A complaint of bringing his office or the authority into disrepute by displaying inappropriate pictures on his Facebook page.

Decision – terminate the investigation. The question regarding inappropriate images is a subjective one. There was no suggestion that the images were illegal. The activity fell within the member's personal life, and it did not impact on his job as a Councillor. Legal opinion had to be considered also, which suggested that the member's right, under article 10 of the Human Rights Act 1998, to express himself should not be prejudiced by the fact that he is a councillor.

Case 3329/201102729

A complaint by a fellow Community Council member that:

- The Councillor had not declared an interest when his Planning Application had been discussed
- The Councillor had not left the room although other members had noted that he had an interest and had asked him to leave
- Asked the clerk for information relating to the planning application

Decision – that the member had breached the code of conduct by failing to declare an interest, but no further action was needed. The Ombudsman did not believe that the Standards Committee would impose any penalty in this case should the matter be referred to it. The reason for this was that the planning application had already been considered and determined by the local planning authority; therefore the community council did not need to make a decision on the matter. Furthermore, although the councillor had raised the matter, little discussion was had on the matter.

Case 201103099

A complaint against a town councillor by a fellow member for unacceptable behaviour towards him at a closed meeting of the council. He had behaved in a threatening manner and had shouted at him so loudly that he was spitting in his face, and had hit his hand in an aggressive manner.

Decision – No evidence of breach of the code. The Ombudsman was not of the opinion that the evidence gathered was strong enough to support the allegation. The member had apologised but he denied having touched the complainant. This was supported by some witnesses, although another witness had supported the complainant's version of events. There had obviously been a heated debate between both members which, in the opinion of those present, had reached an unacceptable level. However, such a discussion could often turn into a heated debate, but the Ombudsman was not of the opinion that the conduct was serious enough to have breached the code in this case.

Case 3580/201200240

A complaint against a county councillor by a fellow member that he had sent an e-mail to a newspaper making incorrect allegations about one of the policies of the complainant's political group.

Decision – not to investigate the allegation, as the behaviour was not a matter did not amount to a breach the code of conduct. The comments made involved giving an opinion on the political group's policy, rather than a personal attack on the member himself/herself. The comments also appeared to be in response to comments made earlier by the complainant in previous articles.

Case 3580/201200240

A complaint by a member of the public that a member of the county council had attacked him verbally and had tried to humiliate him in local public houses. The member admitted that he had spoken with the complainant in a pub once regarding how the way he kept his dogs affected his neighbours. He denied attacking him verbally but acknowledged that he should not have raised the matter in a public house, and he apologised to the complainant the following day. Since then, he had referred the matter to the relevant department of the county council.

Decision – whilst the member's behaviour could be in breach of the code, the Ombudsman was not of the opinion that the standards committee would issue a penalty in the circumstances.

Complaints 3329/201201318 & 3329/1201319

A complaint against two councillors of the same community council by a fellow councillor that they had not disclosed their personal connection with an applicant applying for planning permission.

Decision – not to investigate. No evidence was submitted that showed a close connection with the applicant, or which showed that the members had participated in any discussion or decision on the application.

3. A case considered by the Standards Committee

The Committee held a hearing in relation to the complaint against Councillor A.M. Jones, Gwynedd Council on 26 September 2012. The Committee decided:

- That he should be suspended for three months;
- That Councillor Jones should remove the relevant page from his blog immediately;
- That Councillor Jones should apologise to the complainant; and
- That Councillor Jones should familiarise himself fully with the Code of Conduct

4. Recommendation

The Committee is asked to note the information.

MEETING	STANDARDS COMMITTEE
DATE	27, NOVEMBER, 2012.
TITLE	WORK PROGRAMME
PURPOSE	TO PRESENT FOR RECOMMENDATION THE COMMITTEE'S WORK PROGRAMME FOR THE COMING YEAR.
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER.

1. At its last meeting on the 2nd July the Committee had a presentation on its remit and work and it was agreed that a work programme should be drawn up based on the matters that the members wished to look at over the coming years. A copy of the committee's remit is attached for ease of reference.
2. The Committee normally meets four times a year in January, April, July and November, with the possibility of special meetings to consider specific applications when necessary.
3. The topics which the Committee covers can be divided into three categories, namely :
 - (a) Response to specific applications either for dispensations or hearings.
 - (b) Cyclical matters which the Committee considers such as reports on complaints, annual reports, training.
 - (c) "One-off " matters which require attention as part of the Committee's proactive work of promoting standards.
4. The committee dates for the rest of the Council year are noted below together with cyclical items which can be timetabled.

28, January, 2013:

- Report on allegations against members.
- Minutes of the Chairman and Vice-chairmen North Wales Forum
- Report on training.

8, April, 2013:

- Minutes of the Chairmen's Forum
- Reports on allegations against members
- Work programme for the pending year
- Draft annual report of the Standards Committee.

, July, 2013 (date to be determined)

- Minutes of the Chairmen's Forum
- Report on allegations against members
- The Ombudsman's annual report.
- Feedback from the Standards Conference.

5. Below are suggestions regarding topics which the Committee can consider in order to act proactively to promote standards within the County Council, and town and community councils.
- Consider legislation on Promoting Local Democracy.
 - Detailed analysis of matters before the Welsh Adjudication Panel.
 - Meeting with leaders of the political groups.
 - Observation visits to full Council/committees.
 - Review of the procedure for registration of interests.
 - Training (for county councillors, community councillors, the committee members, co-opted members and officers).
 - Review of the Local Dispute Resolution Procedure and "Gwynedd Standard" (reviewed last October 2010).
 - Review of the Protocol on Member-Officer relations (reviewed last July 2009).
 - Review of the Code of Practice on Members Rights to Information (reviewed last October 2004).
 - Review of the Planning Protocol (reviewed last July 2010).
 - Communication with town and community councils.
 - Review of the procedure and guidelines for dispensations.
6. The Committee is requested to consider which topics should be included in their work programme for the coming year together with suggestions for the work programme for subsequent years.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (ch) monitoring the operation of the Members' Code of Conduct;
- (d) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (dd) granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (e) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any complaint made to him/her or on any matter referred to that officer by the Public Services Ombudsman for Wales;
- (f) authorising payments by the Monitoring Officer of allowances and expenses to persons who have assisted in an investigation by the Monitoring Officer;
- (ff) the exercise of (a) to (f) above in relation to the community councils wholly or mainly in its area and the members of those community councils.

MEETING	STANDARDS COMMITTEE
DATE	27, NOVEMBER, 2012
TITLE	PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY
PURPOSE	TO REVIEW THE PROTOCOL
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER.

1. I attach to this report a copy of the Protocol for Gifts and Hospitality for Council Members. This Protocol was adopted by the Council in June 2004. The Protocol is an effort to provide guidance to members on which gifts and offers of hospitality can be accepted and which must be registered.
2. The Code of Conduct for Members states "*You must, within 28 days of being offered any gift, hospitality, material benefit or advantage above the value of £25, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage. You must register any such offer whether you accept it or not.*"
3. The Standards Committee recommended a threshold of £25 when the Code was adopted in 2008 and the Standards Committee also recommended that any refused offer should be registered as well as the ones that are accepted.
4. In his guidelines on the Code, the Ombudsman offers the following guidance on gifts and hospitality.
 - (a) Accepting gifts or hospitality can create a personal interest for a member, which must then be declared if a committee considers a matter which affects the individual who gave the gift or hospitality.
 - (b) The member should question the motive for the gift or hospitality in order to decide if it is offered to him/her by virtue of his position as a councillor.
 - (c) Any gift or hospitality must be registered if the member is unsure of its value or is part of a series of gifts which together will reach the threshold of £25.
5. The paragraph in the Code of Conduct is relevant to town and community councils in the same way as to the County Council, and the Ombudsman's guidelines for town and community councils include the same guidance. The protocol adopted by Gwynedd Council in 2008 has not been distributed to the town and community councils.

6. Members of the County Council are asked to register any offers of gifts or hospitality which are valued at more than £25 by completing a form and returning it to the Monitoring Officer. I attach a copy of the form. I do however receive some declarations of gifts and hospitalities by e-mail.
7. I attach to the report a summary of all the gifts and hospitality which have been registered since May 2008. It can be seen that the list is not very extensive. It is also worth noting that the registrations of gifts and hospitality have been made by 10 members of the Council.
8. When reviewing the Protocol for Gifts and Hospitality, it may be beneficial to consider the following matters :-
 - (a) Does the Protocol give clear enough guidance to members as to when they should accept or refuse offers? Is it possible to have guidelines which give examples of situations, or would it be better to set criteria or questions that all councillors should ask before deciding to accept a gift or offer of hospitality?
 - (b) Is it confusing to set a financial threshold for registration that is not relevant to whether the gift or hospitality is accepted or not?
 - (c) Is the threshold of £25 still appropriate?
 - (ch) In what form should the register be kept, and how should members register their gifts or hospitality?
 - (d) Are any changes required to the registration form?
 - (dd) Should the protocol be changed so that it refers to the Ombudsman's guidelines?
 - (e) What should be done in relation to compiling a register of gifts and hospitality for town and community councils?
9. In reviewing this Protocol, it is possible that the committee might feel they should commission more research or investigation in order to obtain more detailed evidence. The committee's opinion is therefore sought as to whether this is an area it wishes to review in depth and for their initial comments on the Protocol.

PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY

1. Introduction

- 1.1 You should treat with extreme caution any offer or a gift or hospitality made to you personally. You are responsible for any decision to accept an offer of a gift or hospitality, and your personal reputation and that of the Council could be seriously jeopardised by the inappropriate acceptance of such an offer.
- 1.2 No hard and fast rules can be laid down to cover every circumstance but this protocol offers guidelines to assist you in making a decision.

2. The Law

- 2.1 Accepting a bribe is an offence. If it is proved that you have received any gift, loan, fee, reward or advantage by somebody seeking to obtain a contract from the Council then the onus will be on you (and the person making the offer) to prove that you have not acted dishonestly.

3. Registration

- 3.1 Under the Council's Code of Conduct you must register any gift or hospitality that you receive that is worth more than £25.00. You should also register any such offer that you have refused.
- 3.2 The gift and hospitality register is kept by the Monitoring Officer who should be informed in writing of any gift or hospitality that you receive or refuse that is worth more than £25.00. The register will be available for public inspection.
- 3.3 The figure of £25.00 is of course relevant in considering what should be registered, it does not mean that you can accept all gifts or hospitality that are worth less than that. You must consider carefully every offer whatever its value.

4. Gifts

- 4.1 A "gift" includes free goods and services, the opportunity to buy goods/services subject to a discount or terms which are not available to the public, or the opportunity to buy goods/services that are not available to the public.
- 4.2 You may accept civic gifts on behalf of the Council. This protocol is not applicable to such gifts and neither do they need to be registered.
- 4.3 You should not accept personal gifts that are relevant to your position as a member or arising from that position, from anyone. However, it would be appropriate for you to keep small and insignificant gifts such as diaries etc. You may also accept raffle prizes.
- 4.4 You should refuse any gift offered to you, or to a member of your immediate family, from any person or organisation doing business or seeking to do business with the Council or applying to the Council for some sort of decision.

- 4.5 When a gift has to be declined the offeror should be courteously but firmly informed of the procedures and standards operating within the Council. If such a gift is delivered :
- it must be returned immediately to the sender giving reason.
 - the acceptance and return of gifts over £25.00 should be registered
 - where an offeror insists that you accept the gift, you should contact the Monitoring Officer for advice on further appropriate action.

5. Hospitality

- 5.1 You should not accept hospitality from a person or organisation that is seeking a decision from the Council or is doing business or seeking to do business with the Council.
- 5.2 You should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community.
- 5.3 You should avoid hospitality in a situation where you would be the sole guest.
- 5.4 Offers to attend social or sporting functions should only be accepted where these are part of the life of the community or where the Council should be seen to be represented.
- 5.5 Where visits are required as part of the process of making decisions you should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent decisions.
- 5.6 You may accept hospitality through attendance at relevant conferences and courses where it is clear that the hospitality is corporate rather than personal, where the Council has given permission beforehand and where the Council is satisfied that any of its decisions will not be compromised.
- 5.7 You may accept normal refreshment in connection with your work as a member (tea, coffee, biscuits etc.)

6. Monitoring Officer

- 6.1 If you have any doubt concerning an offer of a gift or of hospitality, you should seek the advice of the Monitoring Officer.

Gift and Hospitality Register 2008 - 2012

Date of Form/email	Gift or Hospitality declared	Accepted/Refused	Value
22/5/08	Champagne. A gift from Mr Alun Gerrard who seconded the Councillor's nomination papers.	Accepted	£25+
16/07/08	Events to celebrate the 70 th Anniversary of the South Caernarfon Creameries. An invitation from the South Caernarfon Creameries.	Accepted	£25+
29/09/08	Tickets to the Faenol Festival. An invitation from the Welsh Assembly Government	Accepted	£25+
05/11/08	A glass plaque from the Mayor of Huchenfeld – the twinning of Llanbedr and Huchenfeld.	Accepted	?
12/11/08	Refreshments at Plas Glynllifon (invitation by Parc Glynllifon to the Craft Fair).	Accepted	c.£5
12/11/08	Refreshments at Plas Glynllifon (invitation by Parc Glynllifon to the Craft Fair).	Accepted	?
21/04/09	A bottle of whiskey from an appreciative constituent	Accepted	£25+
19/11/09	Dinner with Meirionnydd Yacht Club to celebrate the purchase of the land from the Council.	Accepted	£25+
01/12/09	A bottle of wine from an appreciative constituent	Accepted	?
12/1/10	Lunch with Tai Cartrefi Gwynedd – invitation from Cartrefi Gwynedd.	Accepted	c.£25
20/2/10	Launch of “Snowdonia 1890” – invitation from the BBC.	Accepted	?
08/06/10	Invitation to dinner by TRIBAL company	Accepted	£25+
08/06/10	Dinner by invitation of the Welsh Language Board	Accepted	£25+
08/06/10	Dinner by invitation of the Wales Museum Trust	Accepted	£25+
08/06/10	LGC Awards Evening – invitation by Procserve	Accepted	£25+
08/06/10	Dinner by invitation of Cwmni Iaith	Accepted	£25+
08/06/10	Dinner by invitation of Solace 11/2/2010	Accepted	£25+
08/06/10	Welsh Politician of the Year. Dinner by invitation of the Welsh Year Book	Accepted	£25+
08/06/10	David Hawker Dinner	Accepted	£25+
08/06/10	Celtic Festival dinner by invitation of Cwmni Barcud.	Accepted	£25+

08/06/10	Dinner by invitation of Excellence Wales	Accepted	£25+
08/06/10	Dinner with the Local Services Board	Accepted	£25+
08/06/10	Dinner by invitation of Solace 12/2/2010.	Accepted	£25+
08/06/10	North Wales Partnership Board dinner	Accepted	£25+
08/06/10	Meeting with the National Library of Wales – an invitation from the Library.	Accepted	£25+
13/01/11	A dinner arranged by Sain at the Institute of Welsh Affairs evening	Accepted	£25+
24/01/11	Institute of Welsh Affairs dinner	Accepted	£25+
24/01/11	Dinner arranged by the WLGA	Accepted	£25+
18/03/11	Football tickets – Caernarfon v Caernarfon Wanderers – as a member of the Caernarfon Rugby Club by the Caernarfon Football Club.	Accepted	£25+
30/03/11	Foster carers’ Annual Dinner (Gwynedd Council)	Accepted	£25+
30/03/11	Dinner by invitation of the “Harlech Society”	Accepted	£25+
23/05/11	Installation of Cllr Ioan Thomas as Mayor of Caernarfon (by invitation of the Caernarfon Town Council).	Accepted	£25+
29/07/11	2 x tickets to the opening concert at the National Eisteddfod from Cwmni Ynni Gwynt Cymru.	Accepted	£25+
15 /08/11	Dinner by invitation of the “Devere Group”	Accepted	£25+
31/08/11	Gwynedd Business Week – Gala dinner (Gwynedd Council)	Accepted	£25+
06/09/11	A voucher for £50 for a meal at a restaurant and two bottles of wine – from a constituent.	Accepted	c.£60

Gift and Hospitality Register 2012 -2017

Date of Form/email	Gift or Hospitality declared	Accepted/Refused	Value
14/11/12	An invitation to dinner at the Celtic Hotel from the Welsh Arts Council	Accepted	£25+
14/11/12	A ticket and refreshment invitation to the 6 Nations Rugby game in Cardiff on 17/3/12.	Refused	£25+

Committee :	Standards Committee
Date :	27 November 2012
Title :	Adjudication Panel for Wales – Annual Report 2011 - 2012
Author :	Monitoring Officer
Action :	Note for information

Background

1. Members will be aware that the Adjudication Panel for Wales' role is to form case tribunals to consider allegations that members have breached the Code of Conduct. The Panel will receive such allegations in one of two ways – either directly from the Ombudsman or in form of Appeals against decisions made by Standards Committees.

2. Attached to this report is a copy of the Panel's Annual Report for 2011 - 2012.

Recommendation

3. The Committee is asked to note this report for information.

Adjudication Panel for Wales

Annual Report



2011 - 2012

Foreword

This report reviews the work of the Adjudication Panel for Wales during the financial year 2011-12.

During 2011-12, the Panel received only 4 new referrals from the Public Services Ombudsman for Wales and carried over 8 cases from 2010-11. Although relatively low in numerical terms, the Panel's work in terms of tribunal hearings has been dominated primarily by a single ongoing tribunal in Flintshire.

While overall the low number of new cases is to be welcomed, it has meant that there have been limited opportunities for the new members appointed in the autumn 2010 to sit alongside their more experienced colleagues in order to learn from their knowledge and experience. I am pleased, therefore, that the Minister for Local Government and Communities has recently agreed that I and the other members of the Panel first appointed in 2002 should be offered limited 3 year reappointments to 2015. This will provide a further period during which new members can continue to sit with the original members and gain from their experience.

The Welsh Government continues to progress the recommendations of the report of the Welsh Committee of the Administrative Justice and Tribunals Council following its *'Review of Tribunals Operating in Wales.'* It is anticipated that the Panel's administration will transfer to the Administrative Justice and Tribunals Unit within the Welsh Government during the course of the current year. The transfer is a challenge to the business continuity of the Panel's work in the short term, but also offers longer-term opportunities for more effective and efficient delivery of tribunal services as part of the new Unit. The reappointment of members will provide stability for the judicial functions of the Panel during this transitional period.

An important part of my role is ensuring that the lessons from tribunal hearings are shared with stakeholders throughout Wales. In part, this is achieved through the publication of this report and the Panel's website. I was again this year pleased to be asked to speak at the Standards Conference Wales 2011, hosted by Powys County Council. The annual conference provides an ideal opportunity for

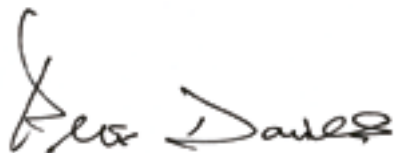


those involved with the code of conduct and the promotion of high standards to meet and share experiences.

2011-12 saw the first challenge in the Courts to a decision of an Adjudication Panel for Wales tribunal. The case centred on issues concerning the member's right to free expression under the common law and Article 10 of the European Convention on Human Rights. The High Court found that the Tribunal took an over-narrow view of what amounts to political expression and that the finding of breach was a disproportionate interference with the member's Article 10 rights. A brief summary of the Tribunal case and the Court reference is at section 3.3 of this report. My Panel colleagues and I are considering carefully the implications of the judgement for future cases.

In addition to case law provided by the Courts, in making their determinations Tribunals have due regard to guidance on the code of conduct published by the Ombudsman. Revised guidance on the code of conduct published by the Ombudsman reflects the Court's judgement in the above mentioned case.

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



J PETER DAVIES
President of the Panel



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1. Background

1.1 Local Government Act 2000

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

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

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

1.2 Principles of Conduct/Code of Conduct

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



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

Police authorities in Wales are subject to separate principles and code of conduct prescribed by the UK Government. However, at the time of writing, it is anticipated that police authorities will be abolished with effect from the autumn 2012.

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

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

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

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



1.4 Role of the Adjudication Panel for Wales

The Adjudication Panel has two statutory functions:

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

Case and Interim Case Tribunals

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

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

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

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



Appeal Tribunals

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



2. Members of the Adjudication Panel for Wales

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

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

President and Legal Members



2002-
2012

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



2010-
2015

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



2010-
2015

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



2002-
2012

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



2010-
2015

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



2002-
2012

Mr Hywel James is a District Judge.



2002-
2012

Mr Stewert Sandbrook-Hughes is a barrister in Swansea.

Lay Members



2010-
2015

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



2002-
2012

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



2002-
2012

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





2010-
2015

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



2002-
2012

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



2002-
2012

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



3. Allegations of Misconduct

3.1 Overview

In the period October 2002 to 31 March 2012, the Adjudication Panel made determinations on 37 references from the Ombudsman and 10 appeals against the decisions of a standards committee. Figures 1 to 3 give a breakdown of the outcomes of those determinations. A summary of the sanctions imposed is in the Annex to this report.

Figure 1: Case tribunal decisions October 2002 to March 2012

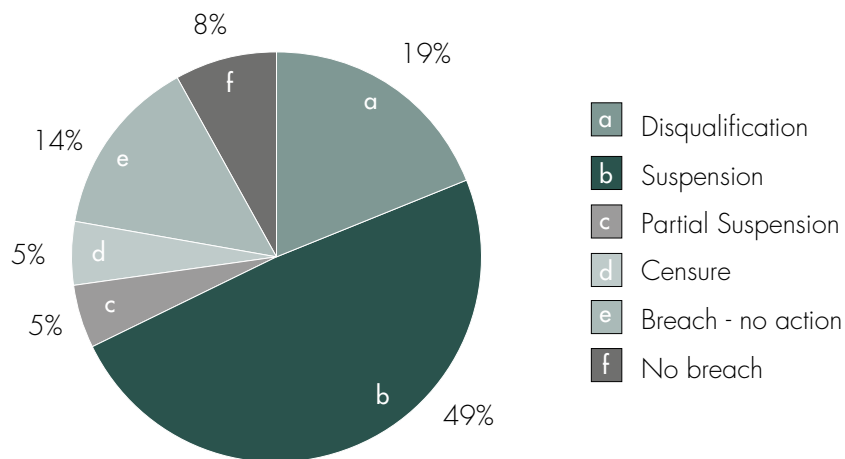


Figure 2: Appeal tribunal decisions - October 2002 to March 2012

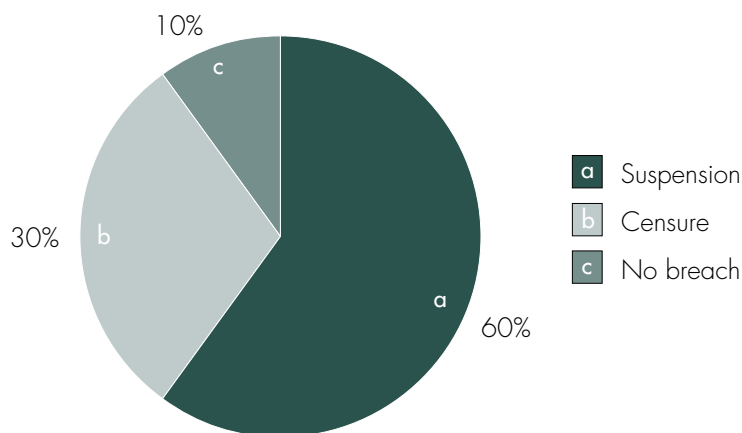
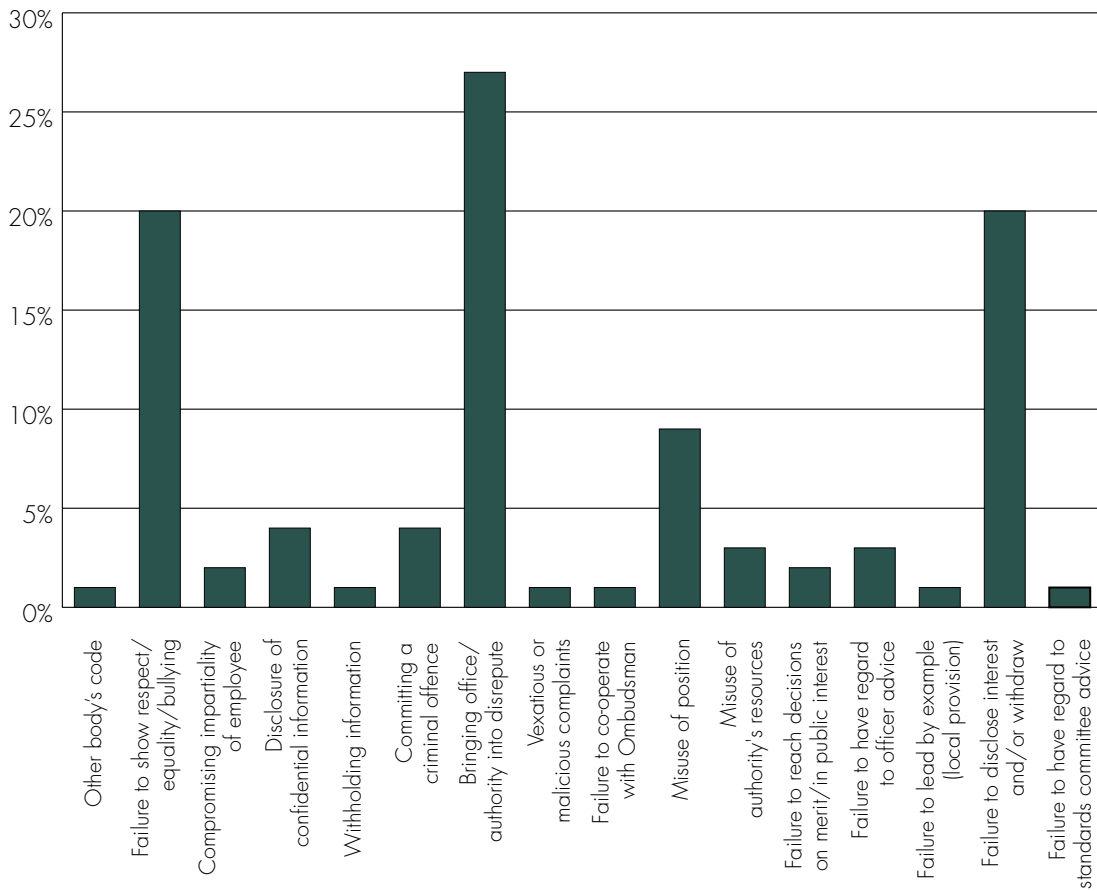


Figure 3: Breaches by type October 2002 to March 2012



3.2 Summary of Case Tribunals

The Public Services Ombudsman for Wales referred 4 cases to the Panel during 2011-12 and 6 cases were carried over from the previous year. Summaries of the 6 cases determined by the Panel during the year are below.

APW/006/2010-011/CT & APW/010/2010-11/CT - Merthyr Tydfil County Borough Council

There were two separate referrals from the Ombudsman which were considered by a single Tribunal.

The allegations were that the councillor had breached the Council's code of conduct by using his Council laptop to set up an inappropriate poll about Amanda Knox; by publishing inappropriate comments on the internet about Housing Benefit claimants; sending inappropriate emails; misusing Council resources; breaking the

Council's Internet Security policies; failing to show respect and consideration for others; disclosing a confidential letter; publishing a deliberately misleading press release; and bringing the office of councillor and his authority into disrepute.

The councillor denied that the online poll had been set up by him and that the inappropriate comments published on the internet were made in a personal or private capacity. However, the Tribunal found that in using the council provided laptop, internet access and referring to his council email address the councillor was in breach of paragraphs 4(b) and 7(b) i to vi.

The Tribunal found that the councillor while representing his authority on another body, had disclosed information contained in a letter that had been marked "confidential" in breach of paragraphs 3(a) and 5(a).

The Tribunal found the media attention generated by the councillor's actions brought his office and authority into disrepute in breach of paragraph 6(1)(a).

The councillor was suspended for a period of nine months and advised to undertake further training on the code of conduct.

APW/007/2010-011/CT - Torfaen County Borough Council

The referral concerned allegations that the councillor had breached the code of conduct by failing to declare an interest and using his position improperly when making donations to local organisations under the Council's Small Schemes Allowance.

The councillor had completed application forms requesting donations to local organisations but had failed to disclose that he had personal or prejudicial interests in those organisations at the time of the donation, in breach of paragraphs 6(1)(a), 7(a), 10(1), 11(2)(a) and 14(1)(d).

The Tribunal found that the councillor had on previous occasions, declared interests in the very organisations for which he subsequently signed forms stating he had no interest. The Tribunal was satisfied that although the councillor had not attempted to gain financially for himself he did have a personal and prejudicial interest. The Tribunal was concerned that the councillor was too busy to attend training on the code of conduct and sought to excuse his breaches by his other commitments.



The Tribunal concluded that the councillor should be suspended for a period of one month and should also attend the next available training session on the Code of Conduct.

APW/011/2010-011/CT - North Wales Police Authority and Isle of Anglesey County Council

The referral concerned allegations that the councillor had breached the code of conduct for members of the North Wales Police Authority by attempting to engage the Temporary Assistant Chief Constable in conversation about a complaint against a constituent; criticising the way the police were dealing with the investigation against that constituent; displaying overbearing and intimidating behaviour towards 3 police officers during a visit to Holyhead Police Station and attempting to influence the course of a police investigation

The allegations in respect of the Isle of Anglesey County Council's code of conduct were that his behaviour at Holyhead Police Station was bullying and harassing and failed to show respect for others; that he disclosed confidential information about the health of a fellow councillor and that he brought his office or authority into disrepute.

The Tribunal was not satisfied that the North Wales Police Authority's code of conduct was engaged. The Tribunal was satisfied that the councillor had not given the impression that he was acting as a representative of that authority.

The Tribunal found no evidence that the councillor had disclosed information that could be regarded as confidential, that he had sought to confer an advantage for himself or his constituent, or that he had attempted to compromise the impartiality of those who were working for the North Wales Police Authority. The Tribunal was satisfied that his conduct during his conversation with one of the police officers at Holyhead Police Station had been inappropriate, and that he had failed to show her respect and consideration in breach of paragraph 4(b).

The Tribunal was satisfied that his conduct had brought both the office of councillor and the Council itself into disrepute in breach of paragraph 6(1)(a).

The Tribunal accepted that the councillor had given considerable public service to his community and that this was a one-off incident where the councillor had an



honestly held, but mistaken, belief as to what he could and should do about the situation in which he and his constituent had found themselves.

The Tribunal concluded that the councillor should be censured and warned about his future conduct.

APW/001/2011-012/CT - Torfaen County Borough Council

The referral concerned allegations that immediately following his appearance before an Adjudication Panel for Wales tribunal, which suspended him for 12 months, he resumed practices consistent with those that had brought him before that tribunal. He issued press releases regarding that hearing and the suspension he had received. He also expressed opinions about the integrity and honesty of the Council and its senior officers.

In the absence of a response from the, by then, former councillor within the statutory deadline, the Tribunal made its adjudication on the basis of the papers before it in exercise of its powers under paragraph 3(3) of the Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001.

The Tribunal considered that the emails issued by the councillor breached paragraph 6(1)(a) of the code of conduct. The Tribunal also considered the Public Statement made by the councillor in which he challenged the legal basis for the existence of the Adjudication Panel for Wales accusing it of inherent bias. The councillor gave no factual or evidential basis to support any of his allegations.

The Tribunal noted that that the previous Tribunal had given very serious consideration to imposing a disqualification, but in reliance of the councillor's undertaking to adhere to the code of conduct, to moderate his behaviour and to act in a non-adversarial fashion in the future, it had suspended him for 12 months.

The Tribunal noted that despite the undertakings given at the earlier hearing, the following day he continued to issue press releases containing unsubstantiated allegations.

The Tribunal considered that the former councillor's conduct merited a disqualification from holding office for a period of 3 years.



APW/008/2010-2011/CT - Saltney Town Council and Flintshire County Council

The referral concerned allegations that the councillor had acted inappropriately during council meetings; caused distress to another person; failed to account for his mayoral allowance; disclosed confidential information and that his conduct had brought his office and the authorities into disrepute.

The Tribunal found that the councillor, when Mayor, had made inappropriate remarks about Saltney which he refused to withdraw; adjourned one council meeting contrary to the decision of the Town Council and prematurely closed another meeting; was abusive and discourteous to the Town Clerk and Deputy Mayor at the agenda meeting; referred to members as “wild bisons and spoilt brats” and refused to comply with the council’s own standing orders and motions in breach of paragraph 6(1)(a).

The Tribunal found that the councillor had exhibited bullying behaviour towards the Town Clerk during council meetings and in general communications in breach of paragraph 4(c) and had ignored his advice in breach of paragraph 8(a). He had caused distress to the widow of a previous mayor when he had approached her about her late husband’s mayoral allowance and had refused to apologise, in breach of paragraph 4(b).

The Tribunal found that despite the Business Task Group’s decision that their meetings were to be held in confidential session and that matters should not be shared with third parties, the councillor had divulged the comments made about the local Secondary School to the Head Teacher in breach of paragraph 5(a).

The Tribunal concluded that the councillor had breached the code of conduct for Saltney Town Council and should be suspended for 12 months. The Tribunal found no breach in respect of Flintshire County Council’s code of conduct.



3.3 Summary of Appeal Tribunals

There were 2 appeal tribunal hearings during the reporting year.

APW/009/2010-011/A - Manorbier Community Council

An appeal was received against the decision of Pembrokeshire County Council's Standards Committee that the councillor had breached the community council's code of conduct and that he should be censured and undertake training on the code of conduct.

The allegations were that the contents of the councillor's website postings comprising his opinions and comments about the character and ability of some of the members of the Community Council had breached the code of conduct by failing to show respect and consideration to others and bringing his authority into disrepute.

The councillor stated that he was not acting in his official capacity and that the comments on his website were legitimate political comment on the actions of the Community Council and individual councillors. He submitted that a finding of breach was an inappropriate infringement of his right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR).

The Appeal Tribunal concluded that a member of the public reading the website would have gained the impression that the councillor was acting as a member of the Community Council. The Appeal Tribunal found that the postings, whether or not they were true, showed a lack of respect to individual members of the council and the council as a body. The Tribunal concluded that whilst Article 10 of the ECHR was engaged, the higher level of protection afforded to political expression did not apply.

The Appeal Tribunal upheld the determination of the Standards Committee that the councillor had breached the code of conduct and endorsed the sanction that he should be censured and undertake training on the code of conduct.

Note: the Appeal Tribunal and Standards Committee decisions were overturned following a Judicial Review by the High Court - Ref:[2012] EWHC 1172 (Admin).



APW/012/2010-011/A - Torfaen County Borough Council

An appeal was received against the decision of Torfaen County Borough Council's Ethics and Standards Committee that the councillor had breached the Council's code of conduct and should be censured. Whilst not appealing the finding of breach the councillor was appealing the sanction imposed.

The allegations were that the councillor had failed to maintain accurate records of his appointments and interests in the statutory register in breach of paragraphs 15(1) and 15(2). The councillor had completed application forms requesting donations under the Council's Small Schemes Allowance to Torfaen Access Coalition and Fairwater Comprehensive School but had failed to disclose that he had a personal and prejudicial interest in breach of paragraphs 11(2)(a) and 14(1)(d).

The Appeal Tribunal took into account the number of breaches found by the Standards Committee, the delay by the councillor in updating the register of interests and the declaration that the councillor had no interest when this was not the case.

The Appeal Tribunal decided by unanimous decision to endorse the decision of the Ethics and Standards Committee that the councillor should be censured.

3.4 Ongoing Cases

At September 2012, the Adjudication Panel had determined 3 cases in the current financial year and a further 5 were on going. These cover a range of potential breaches, such as failing to show respect, attempting to misuse their position as a member, intimidating and bullying behaviour towards council employees, making unsubstantiated public allegations about officers.

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



4. Overview of Procedures

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

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

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

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

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

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

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

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



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

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



5. Support Unit

The Adjudication Panel is supported by:

Stephen Phipps, Registrar to the Panel

John Davies

Carol Webber

Jason Plange

The Panel's address is:

Adjudication Panel for Wales

1st Floor, North Wing (N-04)

Cathays Park

CARDIFF

CF10 3NQ

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Annex

Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2012

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

Appeals	
Breach of code upheld/dismissed	9 (90%)/1 (10%)
Sanction endorsed	7
Different sanction recommended	1 increase/1 decrease
Not accepted/withdrawn <ul style="list-style-type: none"> • Out of time • Not in jurisdiction 	1 1



Committee	Standards Committee
Date :	27 November 2012
Title	The Ombudsman's Annual Report 2011/12
Author	Monitoring Officer
Action :	Note for Information

Background

1. The Public Services Ombudsman for Wales has published his annual report for the year 2011-2012.
2. A copy of those parts of the report relevant to code of conduct complaints is attached to this report as an **Appendix**. The report can be found on the Ombudsman's website (www.ombudsman-wales.org.uk)

Recommendation

3. The Committee is asked to note the report.

1. Introduction



I am pleased to introduce this, my fourth, annual report since taking up my post as Ombudsman (and the sixth annual report of the Public Services Ombudsman for Wales following the introduction of the office in 2006).

The theme for this year's annual report is 'Improving Access: Delivering Improvement'. This recognises the work done to improve access to the complaints procedures of bodies within my jurisdiction, other public service providers, ombudsmen services (including my own service) and other complaint handling schemes. This has been done by raising awareness, making access easier for people with protected characteristics and through the Complaints Wales signposting service we have provided more information on how people can access advice and advocacy services to help them in making their complaints.

Delivering improvement reflects our work in improving public service delivery in Wales, by ensuring that the recommendations in my investigation reports are complied with, working with regulators to ensure that the changes introduced are sustained and effective, and working to share the lessons from those investigations with other public service providers.

The year 2011/12 was the final year of my three year Strategic Plan. The achievements against that Plan have been substantial. As well as achieving the objectives set there have been other key achievements that were unforeseen at the time of its initial development. Not least of these was the creation of the Complaints Wales service. This innovative telephone and web service provides advice to those members of the public who wish to complain about a public service but do not know how to do so. I talk about this in greater detail later in this report, however, I am particularly pleased that as far as the international community of ombudsmen is concerned, we in Wales appear to be a world leader in offering such a service and many others are now contemplating going down the same road.

With regard to our core activity, the complaints I receive about public services continue to rise, being 13% up on the number received during 2010/11. The NHS Redress Measure was introduced on 1 April 2011 and whilst this can account for some of this increase, it is only one factor. Concerningly, code of conduct complaints rose by 49% and I address this at Section 4 of this report.

We have over the past three years made great strides in improving efficiency in the way we consider complaints. In particular, I am pleased that although there has been a significant increase in the enquiries and complaints that we receive, we have still managed to exceed our performance targets. We also upgraded our complaints handling system during the course of the year with a view to getting new technology to take some of the strain of some of the administrative tasks associated with

complaint handling. I will over this next year be looking to see what more we might be able to do to improve efficiency. However, I am conscious that there is only so much that we can do in terms of increasing productivity and streamlining our ways of working before the robustness and quality of work is threatened.

During the past year, with the involvement of all my staff, I also produced my Strategic Plan for the next three years. We will be working towards a slightly revised vision for the service over this period, which is:

To put things right for users of public services and to drive improvement in those services and in standards in public life using the learning from the complaints we consider.

Work was also undertaken during the course of the year to produce a Strategic Equality Plan. This was in accordance with the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. Also under the specific duties, I am required to produce an equality annual report. I have decided that it is most appropriate to do so within this Annual Report. Accordingly the activities of my office in relation to equality and diversity issues are reported at Section 8.

We have also continued with activities to raise awareness of the office and its work. This included holding a seminar for voluntary organisations in Wales. We also met with individual advice and advocacy bodies during the year. It was also a particular pleasure to welcome Mrs Rosemary Butler, the Assembly's Presiding Officer, to the office. My staff appreciated the time that she gave to them and the interest that she took in their individual roles.

I have previously reported on the work of a Welsh Government group that I was asked to chair, with the task of developing a common complaints procedure. I was very pleased that the advice offered to the First Minister on a Model Policy and Guidance for complaint handling for adoption by all public service providers in Wales was issued by the Welsh Government in July 2011. I know that some organisations, including the Welsh Government itself, have already put these new arrangements in place and I will be taking a keen interest over the next year to see what steps other bodies within my jurisdiction are taking to introduce the policy.

I have also welcomed the opportunity to be able to engage in discussions concerning the Social Services (Wales) Bill. Whilst at the time of writing this is still out to consultation, I am pleased that there is a proposal to bring private providers of care homes and domiciliary care agencies, as well as independent palliative care services into my jurisdiction. In particular, it has seemed unjust to me that a resident in a care home who has his or her care paid for by the state can complain to me about poor care, while a resident who pays for their own stay at the same care home cannot.

During the course of the year I also reviewed the governance arrangements of my office. I took the view that the office would better be able to demonstrate openness and transparency through the creation of an Advisory Panel. An open recruitment process began at the end of the year, with a view to members being appointed at the beginning of 2012/13.

In discussing governance, it would be remiss of me not to express here my appreciation for the work that Mr Laurie Pavelin has undertaken as Chair of the Audit Committee. His six years in the position came to an end on 31 March 2012. I have truly valued his wise counsel and support since the time I took up the office of Ombudsman and thank him for it.

Finally, thanks must also go to my staff. Every individual within the office has an important role to play in our success. The year has been one of innovation in terms of the introduction of a new service, enhanced communication methods and information technology developments. However, it has been equally notable for the continued hard work which has enabled us to stay on top of an ever-growing workload - in this regard, with the financial constraints on public services, I cannot see the trend reversing. I do not underestimate the challenges ahead of us.



Peter Tyndall
Ombudsman

4. Code of Conduct Complaints

Headline figures

- We received 412 new complaints, **up 49%** on 2010/11
- We referred 19 investigation reports to either a standards committee or the Adjudication Panel for Wales, **down 58%** on 2010/11.
- We closed 345 cases, **down 1%** on 2010/11
- We had no investigations older than 12 months old open at 31 March 2012

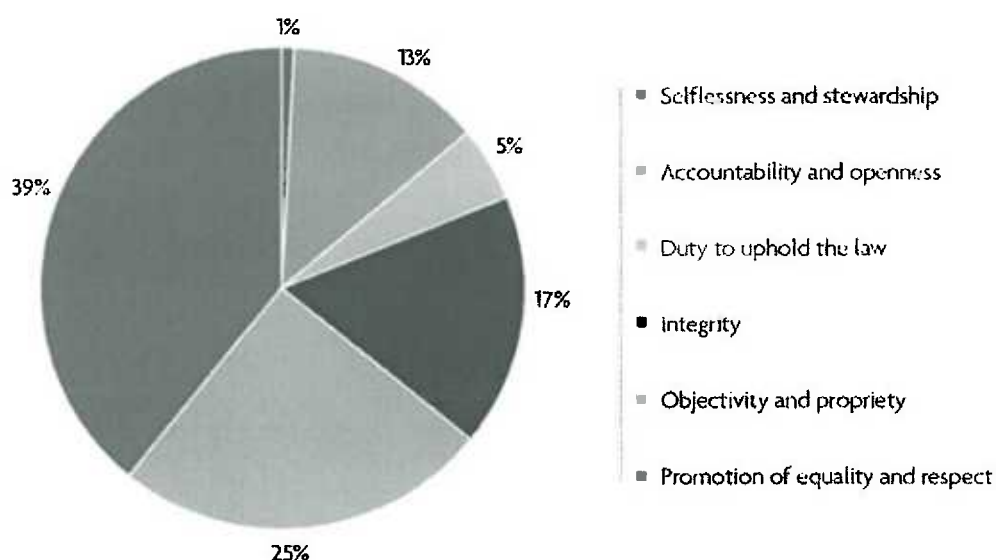
Complaints received

The table below gives a breakdown of the Code of Conduct complaints received by type of authority. Whilst last year I was pleased to report a decline in the number of complaints received, I have been particularly concerned to see the increase in the number of complaints received this year, which has increased by 49%. I address this increase later in this section.

	2011/12	2010/11
Community Council	206	141
County/County Borough Council	177	135
National Park	28	1
Police Authority	1	-
Total	412	277

Nature of Code of Conduct complaints 2011/12

As the chart below shows, the majority of complaints received during 2011/12 related to matters of 'equality and respect' (39% compared to 57% in 2010/11). However, there was a noticeable increase in the number of complaints relating to 'objectivity and propriety' over the past year, accounting for 25% of the Code of Conduct complaints received compared to 10% in 2010/11.



Summary of Code of Conduct complaint outcomes

Of the Code of Conduct cases considered in 2011/12, the majority were closed under the category shown below as 'Closed after initial consideration'. This includes decisions such as:

- there was no 'prima facie' evidence of a breach of the Code
- the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)
- the incident complained about happened before the member was elected (before they were bound by the Code).

The number of cases which I concluded should be referred to either an authority's standards committee or to the Adjudication Panel for Wales was 19 compared to 45 in 2010/11.

	2011/12	2010/11
Closed after initial consideration	270	194
Complaint withdrawn	12	16
Investigation discontinued	9	43
Investigation completed: No evidence of breach	7	13
Investigation completed: No action necessary	28	38
Investigation completed: Refer to Standards Committee	15	21
Investigation completed: Refer to Adjudication Panel	4	24
Total Outcomes – Code of Conduct complaints	345	349

(A detailed breakdown of the outcome of Code of Conduct complaints investigated, by local authority, during 2011/12 is set out at Annex C.).

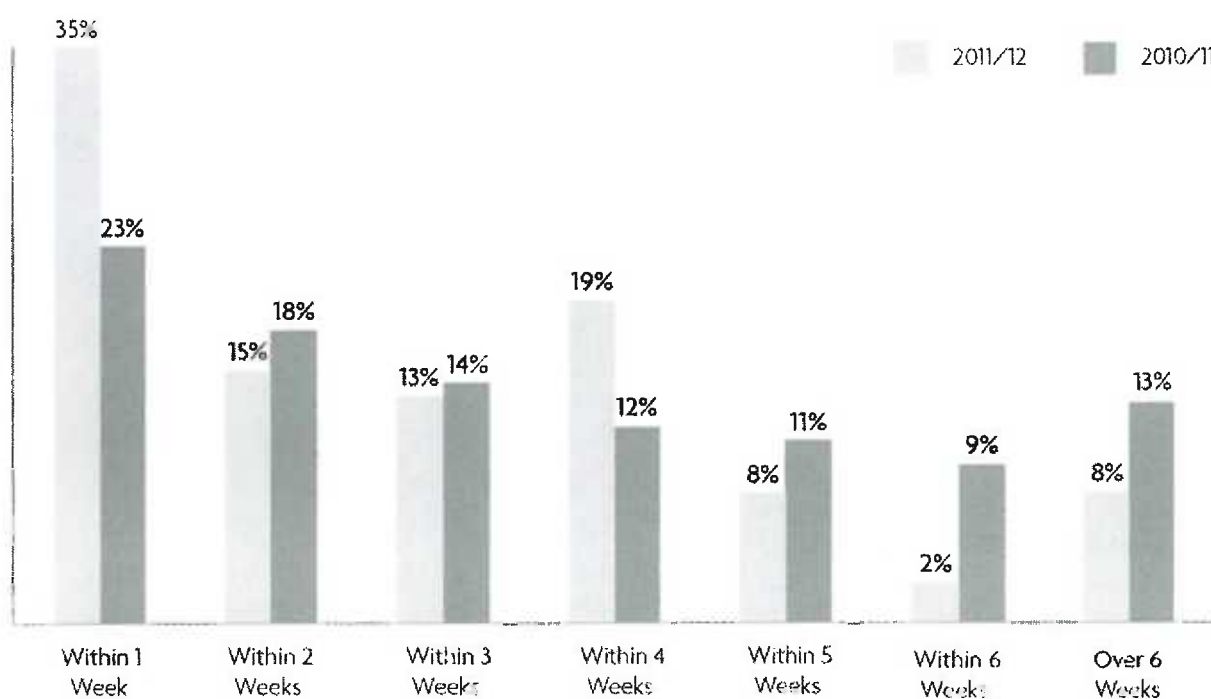
Decision times

Below are the decision times for Code of Conduct complaints. The time targets set for Code of Conduct complaints are similar to those for complaints about public bodies, i.e.

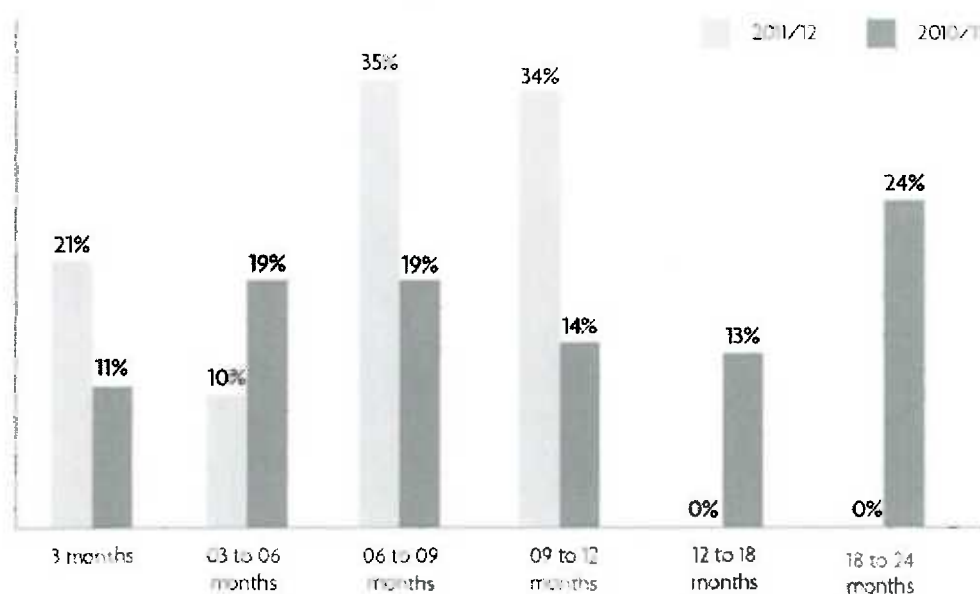
- to tell complainants within 4 weeks whether we will take up their complaint from the date that sufficient information about the complaint is received
- to conclude cases within 12 months from the point that a decision is made to take up a complaint (that is, to commence investigation of a complaint).

I am pleased that in terms of the overall caseload of complaints we received (both public body and Code of Conduct), we have surpassed the overall general target of achieving the four week deadline 80% of the time. However, we have to deal with Code of Conduct complaints in their initial stages in a different way compared to those in respect of public bodies. In respect of Code of Conduct cases we achieved the target 82% of the time. But again, this is an improvement on last year's position, when the target was achieved 67% of the time. The detailed position is set out in the chart below.

Decision times for informing complainants we will take up their complaint



Decision times for concluding Code of Conduct investigations



I have commented in previous Annual Reports about my concern about the time it has been taking to deal with Code of Conduct investigations. I have also previously explained that this is partly due to the consequences of members increasingly engaging legal representation. In 2009/10 we changed our process with a view to improving performance. I am pleased to be able to report therefore the changes introduced are now bearing fruit. As the chart above indicates, no code of conduct investigations took longer than 12 months to complete.

Commentary on the increase in the number of Code of Conduct complaints

It is not surprising that the increase in the number of Code of Conduct complaints received has occurred during the year in the run up to county council elections. I am extremely disappointed that it appears that the Code is being used in this way.

I am also concerned about certain practices emerging amongst town and community councils. It became necessary during the year to correspond with the Clerk of Prestatyn Town Council in relation to our mutual concern about the number of complaints I receive in respect of members of Prestatyn Town Council. During 2011/12, I received 65 complaints out of a total of 206, representing 32% of the complaints about town and community councils. This level of complaints is entirely disproportionate. Such a level of complaints, in my view, reflects a very hostile set of interactions between councillors and must inevitably lower the esteem in which the Council is held by its electors. I have urged the Council to reflect on the culture which is giving rise to these complaints and how behaviour might be changed to reverse this trend. I am also aware that some of these complaints are being made by a small number of members of the public and one person in particular. I will actively consider what further steps are available to me to tackle the problem. In particular, if there is no reduction in the number of complaints by members against other members, the Code has explicit provisions regarding vexatious

complaints and I will not hesitate to invoke them. I have urged the members of Prestatyn to develop the Council so that its reputation steadily improves.

Code of Conduct for local authority members – changes to practice

In recognition of concern about certain aspects of the Code and the use of complaints for political purposes, I have been in discussion with the Welsh Local Government Association (WLGA), the Association of Council Secretaries and Solicitors (ACSeS) and the Welsh Government on a range of measures designed to reform the current Code of Conduct system, which can be achieved without the need for legislation. The aim is that these measures will enable a local resolution process to be introduced across Wales which should greatly reduce the number of complaints brought by councillors against other councillors which need to be considered by my office.

The first element of this new approach was introduced at the beginning of 2012, and applies to members of county/county borough councils and community/town councils. When I am minded not to investigate a complaint or having commenced an investigation I am minded to close my investigation, I will write to the Monitoring Officer. This will arise when I judge that even if the Standards Committee did find that there had been a breach of the Code, it would be unlikely to administer a sanction. It will then be for the Monitoring Officer to consider the matter. If they take a different view on the likelihood of the Standards Committee applying a sanction if they decide that there has been a breach of the Code then I will transfer the investigation to them for local consideration.

In April 2010, in response to requests from local authority monitoring officers and others, I issued guidance for local authority members on the Model Code of Conduct issued in 2008. This was developed following an initial consultation inviting local authorities to identify which aspects of the Code they would value guidance upon, and a subsequent consultation with the Association of Council Secretaries and Solicitors, One Voice Wales, the Welsh Assembly Government and the Adjudication Panel for Wales on the draft. That guidance however was revised at the end of 2011/12 to reflect the above changes, and has been placed on my website. I previously made it clear that the guidance should be a 'living' document and it is intended to make further revisions and provide additional guidance on the Code in the early part of 2012/13.

Standards Committee and Adjudication Panel for Wales's Hearings – Indemnity Cap

I have also been in discussions with the WLGA regarding the scale of indemnity offered by Welsh local authorities to their members when defending themselves against alleged breaches of their Code of Conduct, especially when facing tribunals convened by the Adjudication Panel for Wales.

I have proposed that a cap of £10,000 should be put in place. As a councillor could face disqualification, I believe that in seeking a parallel, it is helpful to consider employment tribunals, where claimants may have lost their employment. In these instances, awards of costs are limited to £10,000, offering a useful comparator. I have said that I would then match the £10,000 cap in respect of my own costs. At the time of writing I am awaiting a formal response to my proposals on this matter.

Annex C

Code of Conduct Complaints: Statistical Breakdown of Outcomes by Local Authority

COUNTY/COUNTY BOROUGH COUNCILS

County/County Borough Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	4		1					5
Bridgend	3							3
Caerphilly	6	1			1			8
Cardiff	5				1			6
Carmarthenshire	7						1	8
Ceredigion	4							4
Conwy	9							9
Denbighshire	5				1	1	1	9
Flintshire	8				2		1	11
Gwynedd	2							2
Isle of Anglesey					1	2	1	4
Merthyr Tydfil	3							3
Monmouthshire	7							7
Neath Port Talbot	1							1
Newport	2				1			3
Pembrokeshire	7				1			8
Powys	5		1					6
Rhondda Cynon Taf	8					1	1	10
Swansea	38	1					2	41
The Vale of Glamorgan	12							12
Torfaen	5				1		1	7
Wrexham	1							1
TOTAL	142	2	2	9	4	3	6	168

COMMUNITY/ TOWN COUNCILS

Community/Town Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blackwood Town	1							1
Brecon Town	1							1
Buckley Town						3		3
Caernarfon Royal Town	2						1	3
Caerphilly Town	1							1
Clydach Community	3							3
Coedpoeth Community							1	1
Cwmlllynfell Community	1							1
Dyffryn Ardudwy a Thalybont Community	1							1
Dyffryn Arth Community	1							1
Forden Community	1							1
Gorseinon Town	2							2
Gwersyllt Community	1							1
Holyhead Town	1							1
Kidwelly Town					3			3
Laleston Community	1							1
Llandulas and Rhyd y Foel Community				1				1
Llandegla Community	3							3
Llandrindod Wells Town	2							2
Llanedi Community	2							2
Llanfair (Gwynedd) Community	1							1
Llanfair Mathafarn Eithaf Community	1							1
Llangynwyd Lower Community	2						3	5
Llanidloes Without Community	1							1
Llay Community					1			1

COMMUNITY/ TOWN COUNCILS (continued)

Community/Town Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Maesteg Town	1							1
Magor with Undy Community	1							1
Manorbier Community	6		1					7
Mold Town	1							1
Mumbles Community	3					1	1	5
Newtown & Llanllwchaern Town	3							3
Pelenna Community				1				1
Penmaenmawr Town	3							3
Penmynydd and Star Community	2						1	3
Pentyrch Community						1		1
Porthcawl Town				2				2
Prestatyn Town	28	4	3		2			37
Pyle Community		2				6		8
Rhyl Town	1	1		8				10
Ruthin Town	1							1
Saltney Town	1							1
Seven Sisters Community	1							1
Shotton Town	1							1
St Arvans Community	2							2
St Brides Major Community	1							1
St Harmon Community	9							9
Sully Community				1				1
Towyn & Kinmel Bay Town	3							3
Trellech United Community	1							1
Wick Community	7				1			8
Ystrad Fflur Community	1							1
Ystrad Meurig	1							1
TOTAL	107	7	5	19	11	1	6	156

NATIONAL PARK AUTHORITIES

National Park Authority	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Brecon Beacons	2							2
Pembrokeshire	16							16
Snowdonia	3							3
TOTAL	21							21