



Adjudication Panel for Wales Annual Report

Year 2022 – 2023

PDC / APW

PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

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Foreword

This is my eighth and final report as President of the Adjudication Panel for Wales (“APW”). The report covers the period 1 April 2022 – 31 March 2023.

We aim to ensure that the Panel serves the public interest by dealing with any disputes both efficiently and effectively. We make every effort to ensure that all those involved in the dispute feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We are conscious that the public must have confidence that any breaches of the Code of Conduct will be dealt with fairly in order to uphold trust and confidence in local democracy.

This past year has continued to be a comparatively busy one for the APW; it is though too soon to identify whether the duties on group leaders of councils will result in fewer allegations that the Code of Conduct has been breached, or if there is a long-term trend of increased difficulties.

I have always been of the view that leadership of any court or tribunal is an immense privilege and honour, but it is often best to be time limited to ensure new ways of working or new ideas to refresh and strengthen the judicial body. I hope that I brought to the APW such freshness; my aim was to modernise and develop our practices, approach and judgement. I believe that aim has been achieved. I have in various forums discussed the changes I would wish to see in our powers and Regulations, and am pleased to note the Welsh Government consultation on these issues following the Penn Review on the Ethical framework. I was also grateful to hear from many users how helpful they have found the updated Sanctions Guidance. However, all things must come to an end; I intend to step down from the APW in the coming financial year. This will continue the development of its practice and procedures, which will be critical if the Welsh Government does create the First Tier Tribunal for Wales.

I wish the new President of the APW all the best in their challenging but exciting role. I pay tribute to the members of the APW, both current and past, the Registrars, and my predecessor as President, the late Peter J Davies. During my period of service, there have been a wide variety of cases resolved by the APW; some have seen unexpected developments, allegations that the APW is not independent (countered by the support shown by the First Ministers, Counsels General and members of both the Senedd Cymru and relevant authorities), and the determination of the most contentious and complex matters. There were the challenges presented by the Covid-19 global pandemic to contend with in addition. Throughout it all, the members of the APW followed the excellent example of my predecessor and delivered just and fair decisions, explaining why each tribunal had reached its judgment and on occasions why it was necessary to interfere with the decision of the voters to elect the individual in question. As I write this report, none have been successfully appealed. I could have asked no more from the members of the APW or administration, but they consistently have over-delivered through their support to me and their kindness (an often over-looked virtue) shown to all users.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar. I have no doubt that my successor, whoever they are, will be as interested in hearing from interested parties as I have been.

Claire Sharp
President, Adjudication Panel for Wales

Section 1 – About Us

In this section:

- Basis for the APW
- The APW's Function
- The APW's Regulations
- The APW's Process
- Members of the APW
- Appointments
- Training
- Contacting the APW
- Accessing the APW

Basis for the APW

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

The APW was established under Part III of the Local Government Act 2000.

The APW's Function

The Code of Conduct for an authority provides its members with a set of standards expected of them in public life. The code of conduct covers various requirements as to how members should conduct themselves and includes requirements in relation to equality, personal and prejudicial interests, confidential information, their authority's resources and the need to avoid bringing their office or authority into disrepute.

The APW has two statutory functions in relation to breaches of the Code of Conduct:

- to form case or interim case tribunals ("Case Tribunals") to consider **references** from the Public Service Ombudsman for Wales (PSOW), following the investigation of allegations that a member has failed to comply with their authority's Code of Conduct; and
- to consider **appeals** from members against the decisions of local authority standards committees that they have breached the Code of Conduct ("Appeal Tribunals").

The APW's Regulations

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

APW's procedures are governed by the following legislation:

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

The APW's Process

Anyone wishing to respond to a reference from the PSOW or to make an application for permission to appeal to the APW must complete and send the relevant form to the APW.

At an APW hearing the panel is composed of a legally qualified chairperson and 2 lay members. Legally qualified members can also sit as a lay member. APW hearings are normally held in public and take place near to the authority area.

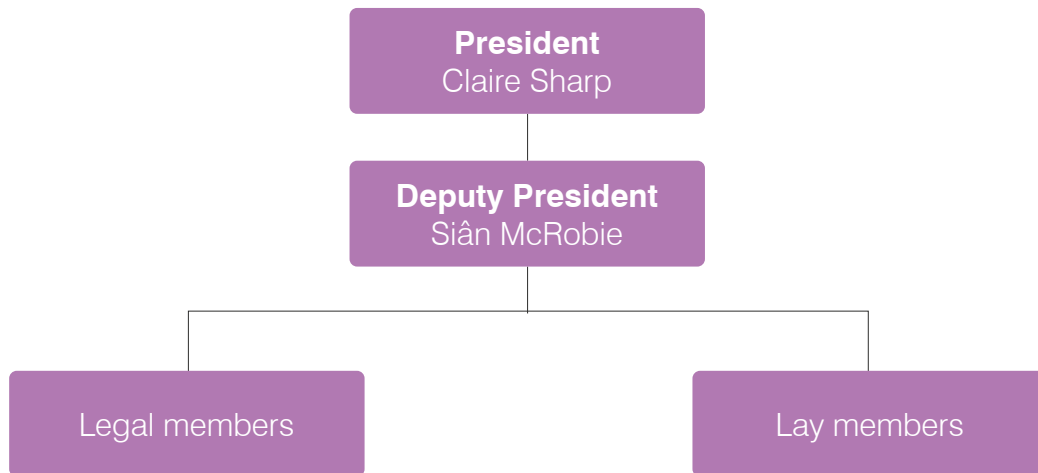
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 6.

Members of the APW

Appointments to the APW are made by the First Minister after consideration of recommendations made by the Judicial Appointments Commission.

President	The President has judicial responsibility for the APW and its members.
Deputy President	The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently.
Legal Members	Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the administration on matters of law. Legal members write APW decisions and give directions where necessary.
Lay Members	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
Administration	The day-to-day administration is largely delegated to the administration which deals with all the preliminary paperwork and the processing of applications to the APW. The administration consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and sends rulings and directions in writing to the parties. The administration acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings.



Appointments

During this period, we have appointed 1 new lay member.

Training

A training seminar was held on **13 May 2022**, with a continued emphasis on judgecraft, together with case law updates and a review of procedural matters.

Contacting the APW

To contact the APW Administration:

APW Address: Registrar to the Panel
Adjudication Panel for Wales
Welsh Tribunals Unit
PO BOX 100
Llandrindod Wells
LD1 9BW

APW Telephone Helpline: 03000 259805
APW E-mail: adjudication.panel@gov.wales

Accessing the APW

The APW is happy to communicate with you in Welsh or English. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing, we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provisions will be made.

To enable arrangements for interpreters or to make provisions for any additional needs of attendees, sufficient notice must be given to the administration.

Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Onward appeals
- Achievement against key performance indicators
- Complaints

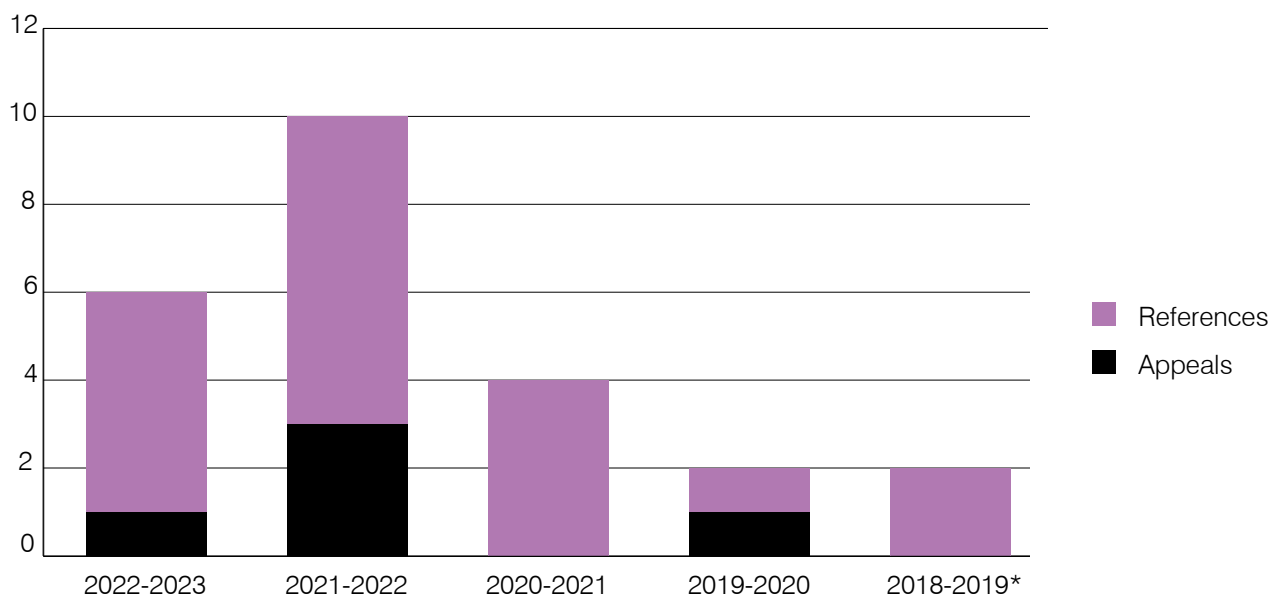
Numbers and Statistics

A Tribunal year runs from April to March. As the numbers of cases received are relatively low, figures are given for a 5-year period to allow for comparison.

The following statistics are collated:

- Number of references and appeals received
- Type of applications received and registered
- Number of applications finalised
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year April 2018 – March 2023



* The 2018-2019 figure was incorrectly detailed in the 2018-2019 Annual Report which has been corrected above.

Graph 2.2: Number of references and appeals decided by year April 2018 – March 2023

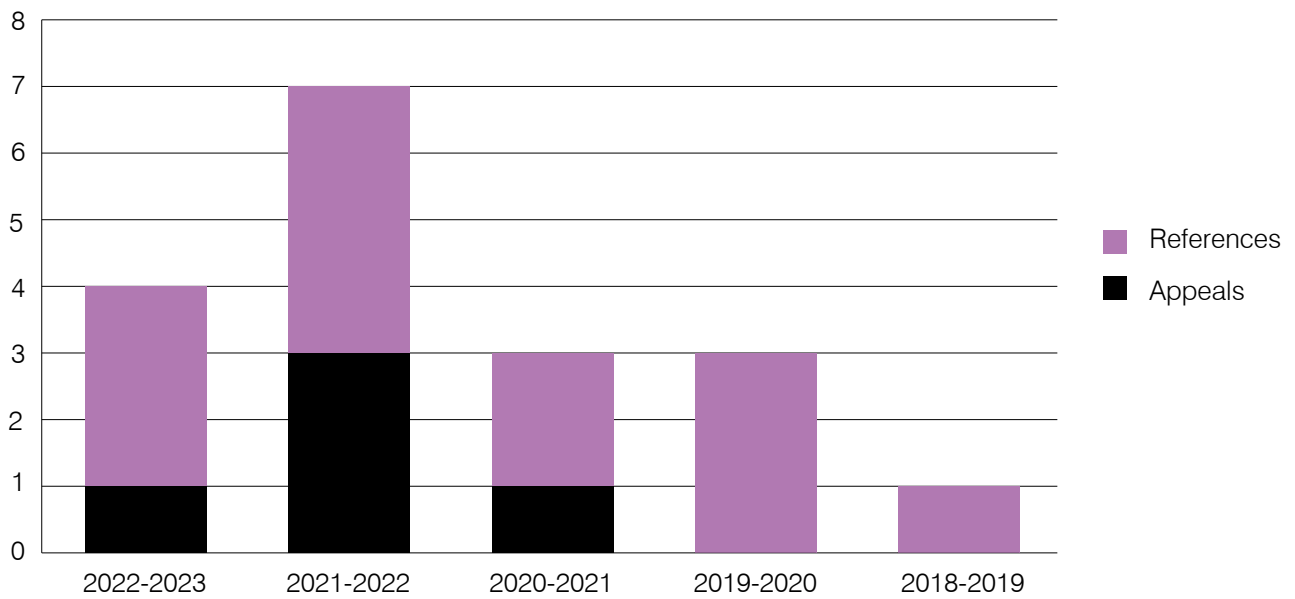
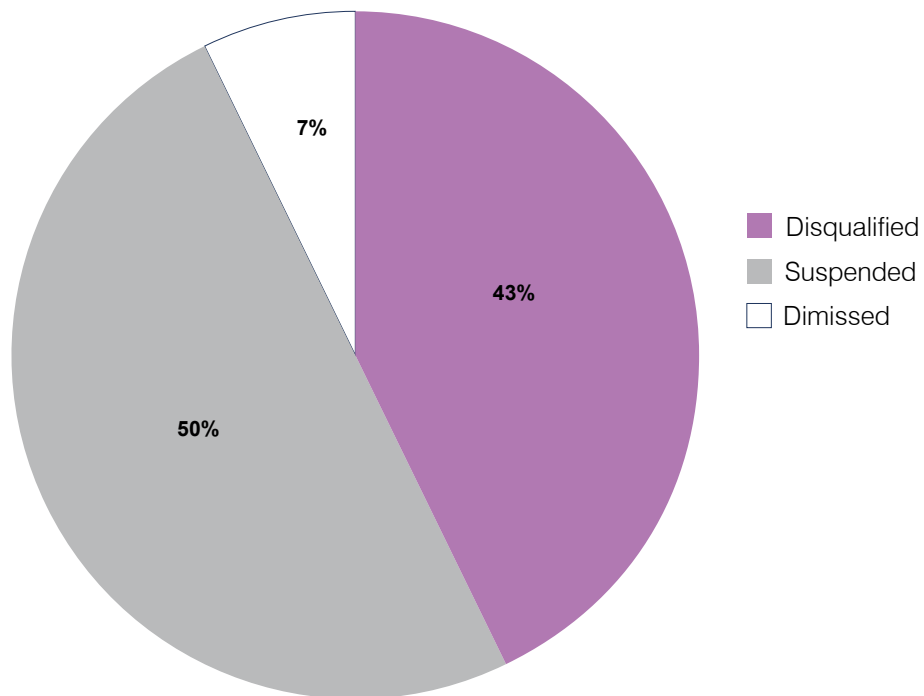
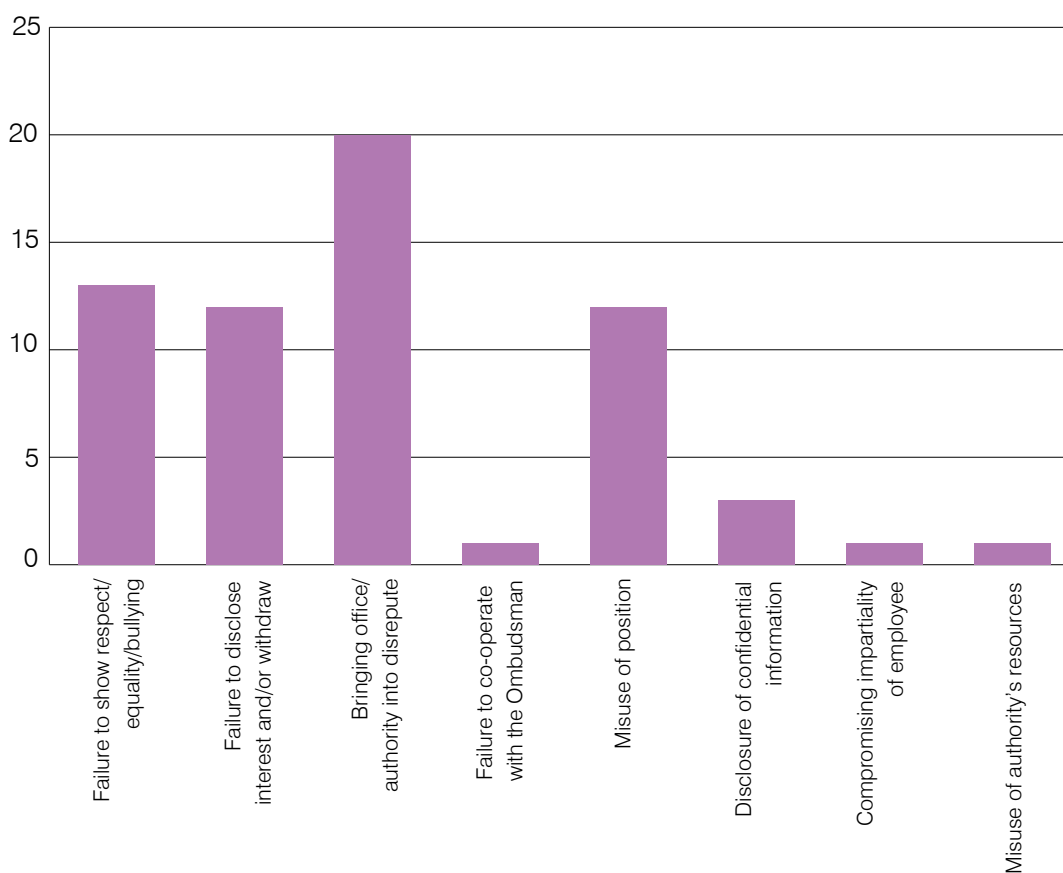


Chart 2.3: Outcomes of references and appeals April 2018 – March 2023

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



Graph 2.4: Breaches by type April 2018 – March 2023



Hearings data

During 2022-2023:

Type	Length (in days)
Reference	3 hearing days
Appeal	0 hearing day

4 listing conferences took place in relation to these cases.

Onward appeals

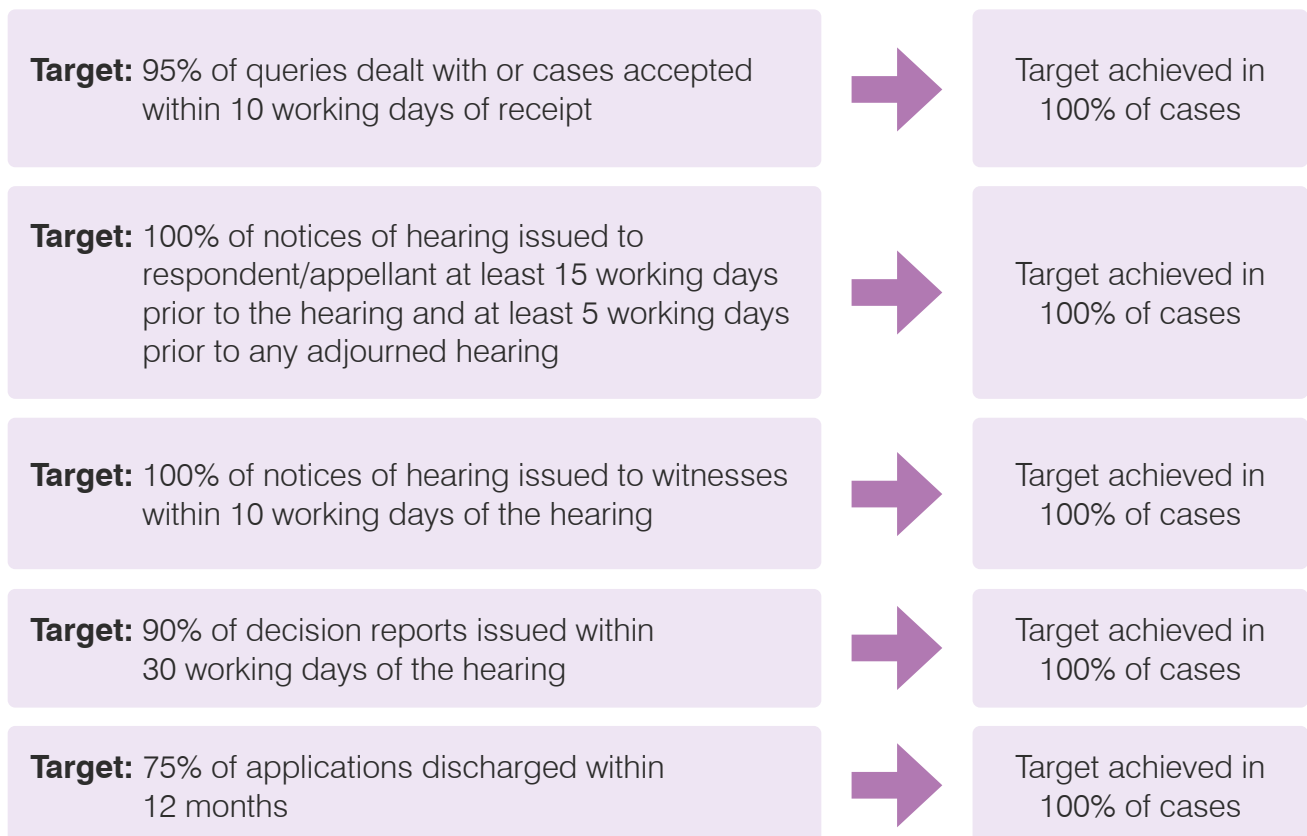
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

Achievement against key performance indicators

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

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below).

Speed of our service 2022-2023



Complaints

The APW received and concluded 0 formal complaint during the reporting period.

Section 3 – Case summaries

In this section:

- References
- Appeals

References

[APW/008/2021-022/CT](#)

[Pembrokeshire County Council](#)

The allegations arose out of three separate complaints and were that the former councillor had breached the Code of Conduct of Pembrokeshire County Council by bullying or harassing individuals and conducting himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute. The case tribunal unanimously found that the former councillor had acted as alleged by the Public Services Ombudsman for Wales (“PSOW”).

The former councillor was found to have repeatedly made false statements about another councillor and members of the public. In doing so, he was found to have bullied the other councillor, harassed a member of the public, and brought both his office and the relevant authority into disrepute.

The former councillor was also found to have posted online misinformation about the Welsh Government’s Relationships and Sex Education curriculum, which he then repeated in an email to a fellow councillor. The case tribunal found that there was no basis for these statements about the curriculum and in saying that there was, the former councillor wilfully and dishonestly misinformed people to outrage them; this brought his office and/or the relevant authority into disrepute.

The former councillor was found to have falsely and maliciously suggested on Facebook that another member of the public was subject to registration because he was a sex offender. He then falsified evidence given to the PSOW in a deliberate attempt to mislead the investigation. This brought his office and/or the relevant authority into disrepute. The case tribunal unanimously concluded that the former councillor should be disqualified for three years from being or becoming a member of a relevant authority.

[APW/009/2021-022/CT](#)

[Llansantffraed Community Council](#)

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute. The case tribunal declined to consider whether she had failed to report any conduct by another member or anyone who works for, or on behalf of, the authority which she reasonably believed involved or was likely to involve criminal behaviour on the basis that paragraph 6(1)(b) did not include a requirement to report a councillor’s own criminal behaviour.

The former councillor was involved in an incident with a contractor for the council, in which she drove her car at speed on private land at him while he was undertaking his duties. Her car struck two minors during the incident; at least one suffered bodily harm. The former councillor continued in her role as a Councillor after the incident and after pleading guilty to the offence of causing bodily harm by wanton and furious driving contrary to Section 35 of the Offences against the Person Act 1861; neither her fellow councillors nor the Clerk reported the matter to the PSOW. She was given a suspended sentence of 10 weeks' imprisonment, which fell short of automatic disqualification.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting herself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority. In addition, it recommended that all current councillors of Llansantffraed Community Council attended training on the Code of Conduct within a period of three months (to be provided by the Monitoring Officer, her delegate, One Voice Wales or any other appropriate provider) to ensure that they understand the Code of Conduct, including paragraph 6(1)(b); and that the Council considered requiring the attendance at such training by the Clerk to the Council.

As at the time of writing this report, it appears the Council has not complied with the recommendations in the timescale required. The Public Services Ombudsman Service is responsible for reporting on compliance.

APW/0010/2021-022/CT
Pencoed Town Council

The allegations were that the former councillor had conducted himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute.

The former councillor was found to have misled the Town Council as to his eligibility to be a Councillor and that this was deliberately or recklessly undertaken both when signing the declaration of acceptance of office and during the 1 year and 8 months that he acted as a Councillor. The former councillor was not eligible to be a councillor having been convicted of three criminal offences in July 2015. He had received a suspended prison sentence exceeding three months, without the option for a fine. This meant that he was not eligible to be a councillor when he stood for election in 2018 and his declaration that he was eligible was false.

The Case Tribunal determined that an individual who is disqualified for being a Member was nevertheless subject to the Code of Conduct when continuing to act in that capacity. It found unanimously that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)) by standing and remaining in office when disqualified.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for two years from being or becoming a member of a relevant authority.

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute, had used or attempted to use her position improperly to confer on or secure for herself or her husband an advantage or create or avoid for herself or her husband a disadvantage, attended a council meeting at which business in which she had a personal interest was and failed to disclose orally the existence and nature of that interest before or at the commencement of that consideration or when the interest became apparent, failed to withdraw from a meeting in which business in which she had a prejudicial interest was considered, sought to influence a decision about business in which she had a prejudicial interest, and made oral representations to a meeting considering business in which she had a prejudicial interest.

The former councillor was married to the Chair of the Community Council. Audit Wales carried out an investigation into the Council and produced a report critical of the Chair (criticism of others was also made). The former councillor admitted to deliberately not declaring her personal and prejudicial interest due to her relationship with the Chair of the Council when attending and speaking as a councillor at two meetings of the Council about the report, or when she voted at one meeting. She said that she acted in such a way as she wanted to be able to defend her husband as “her husband came first” when there was a conflict between him and her public duties as a councillor.

The Case Tribunal found by unanimous decision that the former councillor had failed to comply with the Code of Conduct as follows:

- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (paragraph 6(1)(a));
- You must not in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage (paragraph 7(a));
- Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent (paragraph 11(1));
- Where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority’s standards committee –
 - (a) withdraw from the room, chamber or place where a meeting considering business is being held...”(paragraph 14(1)(a)); ...
 - (c) not seek to influence a decision about that business (paragraph 14(1)(c)); ...
 - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

The Case Tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority.

Appeals

APW/012/2022-023-AT

Wrexham County Borough Council & Brymbo Community Council

Permission to appeal was refused by the President of the Adjudication Panel for Wales on the basis that the councillor had failed to submit his application within the statutory time limit.

Section 4 – Business Priorities

In this section:

- Business priorities for 2022-2023

It is important that the APW continues to develop in order to deliver the best possible service for our customers. This section is about how the APW will build on its achievements through focusing on business priorities and our commitment to our customers.

Business Priorities 2022-2023

- Plan and deliver an all-members training event;
- Continue to deliver an effective and efficient service, meeting key performance indicators;
- Appoint a new President of the Adjudication Panel for Wales;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, and the Welsh Government White Paper in response, action any changes as required by the legislature.

Section 5 – Expenditure

In this section:

- Expenditure for 2022-2023

Expenditure for 2022-2023

Content	Amount
Members Fees and Expenses (proceedings and training)	£30,210
Tribunal events (hearing and other costs)	£5,416
Total	£35,626

Rounded to the nearest £1