

Due to the current heightened security level at all our premises, Members are reminded to wear their identity badges whilst attending meetings. Any visitors must produce photographic identification at Reception.

FIRE & RESCUE AUTHORITY SUMMONS

STANDARDS COMMITTEE

You are required to attend a meeting of the South Wales Fire & Rescue Authority Standards Committee to be held on **Starleaf – Access Code 480 431 2666** on **Monday 1 February 2021 at 1630 hours**.

Please ensure you join the meeting 15 minutes prior to meeting time.

Any issues please contact 01443 232000.

A G E N D A

1. Roll Call
2. Apologies for Absence
3. Declarations of Interest

Members of the Standards Committee are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct

4. To receive the minutes of:

Standards Committee held on 3 February 2020	3
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5. Adjudication Panel for Wales Annual Report 2019-20 9
6. Adjudication Panel for Wales Practice Direction 27
7. Adjudication Panel for Wales Presidential Guidance 31

8.	Independent Remuneration Panel for Wales' Draft Annual Report – February 2021	47
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Signature of Proper Officer:



MEMBERSHIP

Cllr	J	Harries	Labour
Cllr	A	Roberts	Labour
Cllr	J	Williams	Conservative
Mr	R	Alexander	Independent Lay Member
Mr	S	Barnes	Independent Lay Member
Mr	D	Fussell	Independent Lay Member
Mr	G	Hughes	Independent Lay Member
Dr	M	Kerbey	Independent Lay Member

SOUTH WALES FIRE & RESCUE AUTHORITY

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON MONDAY 3 FEBRUARY 2020 AT SOUTH WALES FIRE & RESCUE SERVICE HEADQUARTERS

83. PRESENT:

Mr G Hughes (Chair)	Independent Lay Member
Mr R Alexander	Independent Lay Member
Mr S Barnes	Independent Lay Member
Mr D Fussell	Independent Lay Member
Dr M Kerbey	Independent Lay Member
Councillor J Williams	South Wales Fire & Rescue Authority

APOLOGIES:

Councillor A Roberts	South Wales Fire & Rescue Authority
DCO S Chapman	Monitoring Officer

ABSENT:

Councillor J Harries	South Wales Fire & Rescue Authority
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OFFICERS PRESENT: - Ms S Watkins – Deputy Monitoring Officer

Following a request by the Chair, each Member provided a formal introduction.

With reference to Members Handbooks, Officers agreed to ensure that all Members had received a copy.

84. DECLARATIONS OF INTEREST

No declarations of interest were made.

85. MINUTES OF PREVIOUS MEETING

The minutes of the Standards Committee meeting held on 4 February 2019, were received and accepted as a true record of proceedings.

85.1 MATTERS ARISING

85.1.1 Officers confirmed that a letter of thanks had been sent to Councillor Val Smith acknowledging her dedication and support to the Standards Committee.

85.1.2 With reference to Item 76 within the minutes, 'Social Media Guidance for Councillors', Officers agreed to ensure that all Members of the Fire & Rescue Authority were in receipt of a copy.

85.1.3 With reference to Item 79, 'Public Services Ombudsman for Wales Annual Report & Accounts 2017/2018', Officers agreed to confirm that the following clause was written into the document:-

'Individuals had 20 working days to raise an appeal to the Ombudsman's Office'

85.1.4 With reference to Item 81.2 within the minutes 'Network of Standard Committee Members' Officers advised Members that following discussions with other Monitoring Officers it appeared there was no appetite at this stage to progress this issue.

Following lengthy discussion, Members wished to record their disappointment and register their concerns in not progressing with networking as they considered it an opportunity lost to share good practice. Officers agreed to feedback Members concerns to the Service's Monitoring Officer.

86. OBSERVATIONS BY INDEPENDENT MEMBERS OF THE STANDARDS COMMITTEE

Following a request by the Deputy Monitoring Officer for Members to consider Independent Member observance of Fire & Rescue Authority meetings, Mr Alexander informed the group that he had attended the Fire & Rescue Authority meeting which was held on

16 December, 2019, as an observer. He was pleased to report that generally Members had shown good conduct to business and respect towards each other. However, he noted that several Members had left the meeting earlier than expected.

RESOLVED THAT

86.1 Members agreed to note the verbal feedback of the Independent Member.

86.2 Following a question and answer session, Mr Alexander agreed to forward his observations to Members and Officers following agreement from the Vale of Glamorgan, as their observations template had been used.

87. LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL

The Deputy Monitoring Officer advised Members of the content of provisions of the Bill relating to Standards Committees.

RESOLVED THAT

87.1 Members agreed to note the report and to await further information on any amendments to the Bill that may be enacted.

87.2 With reference to producing an Annual Report as set out in legislation, Officers agreed to confirm if this applied to Fire & Rescue Authority Standard Committee meetings.

88. PUBLIC SERVICES OMBUDSMAN FOR WALES – ANNUAL REPORT & ACCOUNTS FOR 2018/19

The Deputy Monitoring Officer presented a report to Members which included extracts from the Annual Report, and Accounts for the Public Services Ombudsman for Wales for the year ending 31 March, 2019, in respect of Members' Code of Conduct matters.

RESOLVED THAT

Members agreed to note the content of the report.

89. PUBLIC SERVICES OMBUDSMAN FOR WALES – CODE OF CONDUCT CASEBOOK

The Deputy Monitoring Officer presented Members with a report on the Public Services Ombudsman for Wales Code of Conduct Casebook, issues 19 to 22.

RESOLVED THAT

Members agreed to note the content of the Ombudsman Code of Conduct Casebook, issues 19 to 22, published by the Public Services Ombudsman for Wales.

90. MEMBER TRAINING

The Deputy Monitoring Officer presented a report in order for Members to discuss the benefits of the collaborative Member training session held jointly with Mid & West Wales Fire & Rescue Authority's Standards Committee.

RESOLVED THAT

90.1 Following lengthy debate on the benefits of the collaborative training session, Members unanimously agreed that they received good learning points from case studies, as well as participating in interactive mock trials and role play scenarios. They also confirmed it was valuable and useful to share experiences with other individuals at the training session.

90.2 With reference to identifying future training opportunities, Members confirmed they wished to receive training on the following key areas:-

- Social Media
- Equality & Diversity

90.3 Following discussion, Members highlighted the benefits of attending external training courses. Officers agreed to consider this option, and to provide further information in due course.

- 90.4 Officers noted that Members wished to receive periodic refresh training sessions.
- 90.5 With reference to networking, Officers noted that Members wished to extend an invitation to Mid & West Wales and North Wales Standard Committee Members to participate in future training sessions.
- 90.6 Following lengthy group discussion on whether the Monitoring Officer of a Fire & Rescue Authority would inform the Monitoring Officer of a County Council of any complaint made against a current Member, Officers agreed to provide clarification on this issue.
- 90.7 With reference to the Monitoring Officer possibly closing off and resolving any complaints quickly, Officers noted that Members wished to be informed of what the complaint is, and how it had been resolved, in order to identify any trends, and ensure that the complaint had been investigated properly.
- 90.8 Following a question and answer session, Officers agreed to inform Members of the date of the next Standards Conference

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ADJUDICATION PANEL FOR WALES ANNUAL REPORT 2019-20

SUMMARY

This report advises Members that the Adjudication Panel for Wales Annual Report 2019-20.

RECOMMENDATION

That Members note the Adjudication Panel for Wales Annual Report 2019-20.

1. BACKGROUND

1.1 The Adjudication Panel for Wales (APW) is an independent tribunal set up to determine alleged breaches of an Authority's Statutory Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.

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

- To form case or interim case tribunals to consider references from the Public Services Ombudsman for Wales following the investigation of allegations that a Member has failed to comply with their Authority's Members' Code of Conduct; and
- To consider appeals from Members against the decisions of Local Authority Standards Committees that they may have breached the Members' Code of Conduct.

2. ISSUE

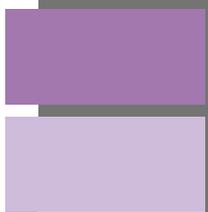
2.1 The APW Report is attached at Appendix 1 to this report, section 2 (at page 8-11) provides details of the performance and progress from 2015-16 to 2019-20 and details the number of references and appeals that have been received each year. Summaries of case tribunal hearings can be found at Section 3 (page 12) of the APW Report.

2.2 Members are requested to consider the contents of the APW Report.

3. RECOMMENDATION

3.1 That Members note the Adjudication Panel for Wales Annual Report 2019-20.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None



Adjudication Panel for Wales Annual Report

Year 2019 – 2020



PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Foreword

This is my fifth annual report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2019 – 31 March 2020.

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.

The cases heard during this financial year involved a variety of alleged breaches of the Code, but for all cases the question of whether the councillor had brought the authority or his office into disrepute arose. The purpose of the Code, standards committees and the Panel is to ensure that not only are standards in public life set out clearly and followed, but to maintain public confidence in local democracy. This aspect of “public interest” remains of central importance as reflected in the Sanctions Guidance.

The Panel has grown to ensure cases are resolved efficiently and to expand the skills and knowledge available to it. Two new legal members were appointed, and the APW took part in the cross-ticketing of lay members to appoint another member. I was gratified to see the success of our members in being cross-ticketed to sister tribunals, demonstrating the abilities of our members and developing cross-jurisdictional judgecraft.

This financial year the Panel gained access to technology allowing it to hear cases remotely and in public. This has enabled the Panel’s work to continue unaffected by the pandemic underway as this report is written, and may lead to changes in our procedures; for example, pre-hearing reviews may be heard virtually, saving costs and travel time. The first Panel Practice Direction was issued to ensure councillors fully understand the importance in completing the response form and the consequences of failing to do so.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar.



Claire Sharp
President, Adjudication Panel for Wales

Section 1 – About Us

In this section:

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

Basis for the APW

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

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

The APW's Function

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

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

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

The APW's Regulations

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

APW's procedures are governed by the following legislation:

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

The APW's Process

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

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

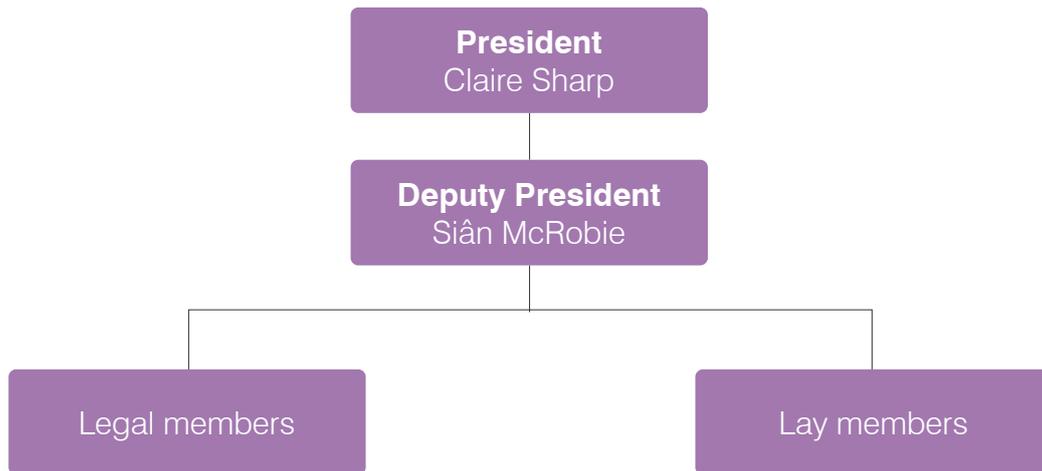
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 7.

Members of the APW

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

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



Appointments

During this period, we have appointed 1 new lay member cross ticketed from another tribunal. 2 new legal members were appointed (through the Judicial Appointments Commission) under the Local Government Act 2000.

Training

A training seminar was held on 10 May 2019, with a continued emphasis on judgecraft. Sessions on communication and freedom of expression were also delivered. All new members received induction training in addition (legal members in May 2019 and lay member in April 2020).

A programme of performance appraisal for APW members has been completed over previous years. It is anticipated that the next round of performance appraisal for APW members will start during the course of the 2020/21 year, depending on the pandemic.

Contacting the APW

To contact the APW Administration:

APW Address: Adjudication Panel for Wales
Oak House
Cleppa Park
Celtic Springs
Newport
NP10 8BD

APW 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

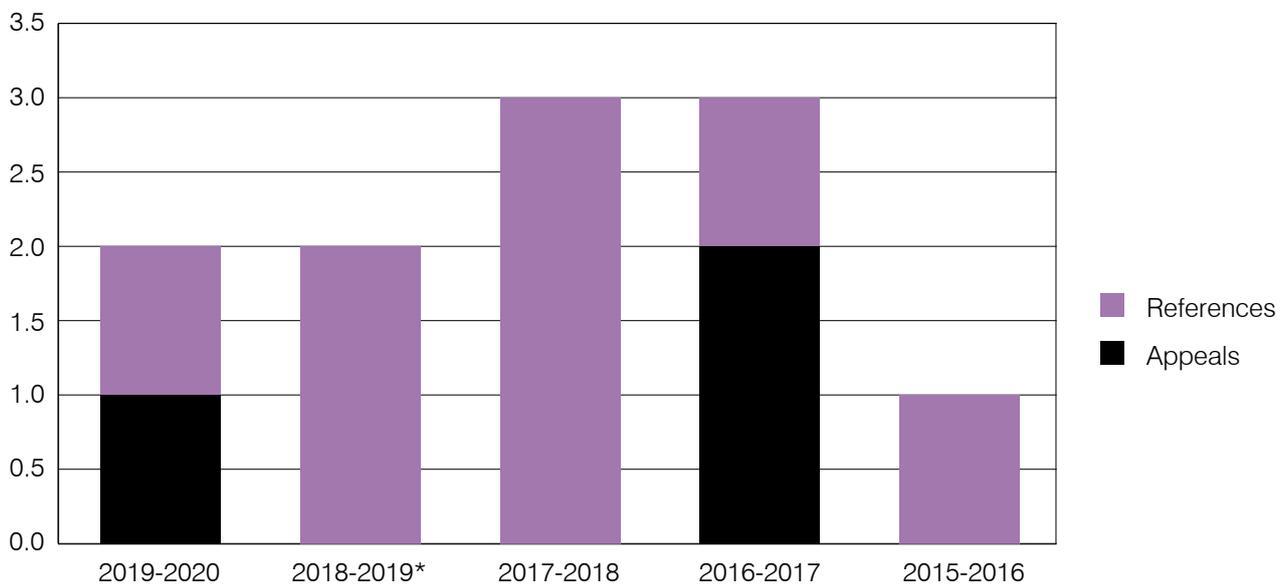
Numbers and Statistics

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:

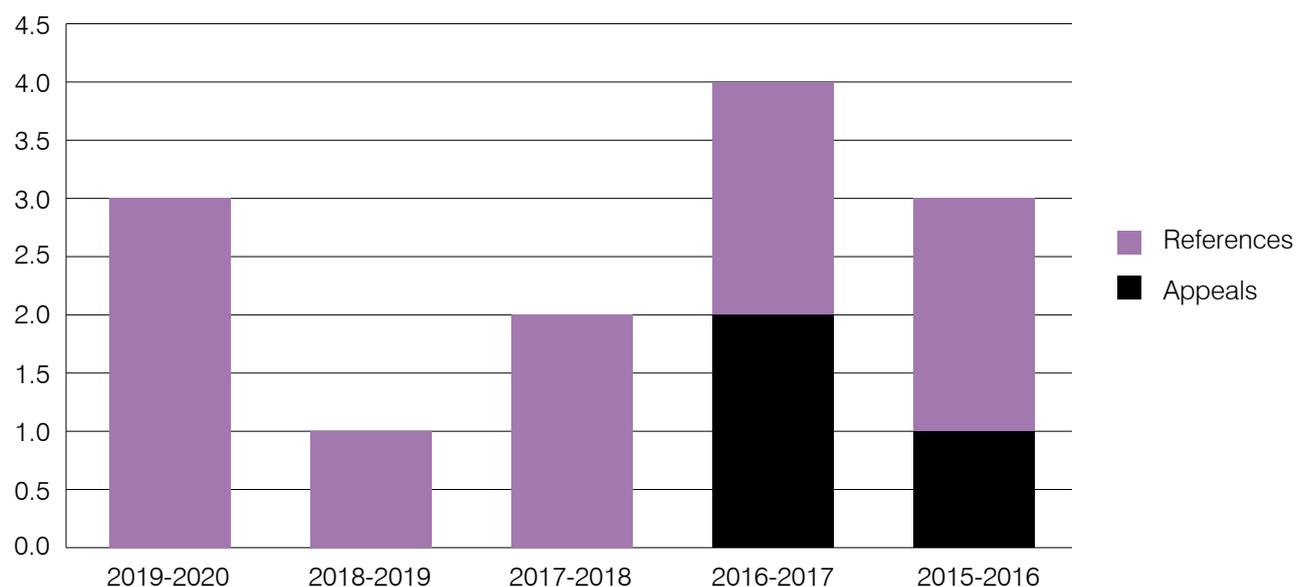
- Number of references and appeals received
- Type of applications received and registered
- Number of applications finalised
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year



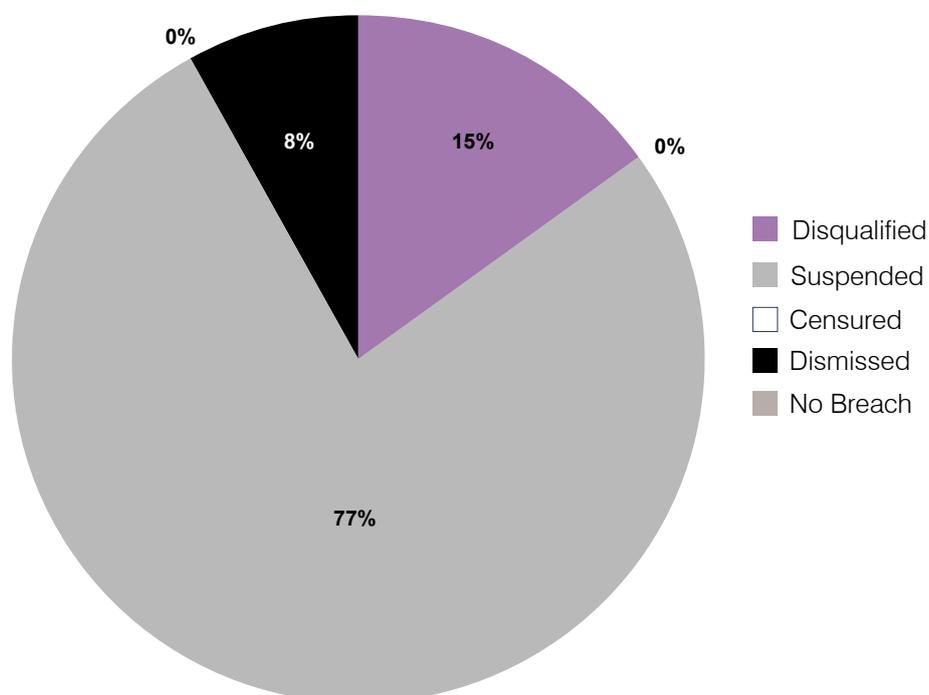
*The 2018-2019 figure was incorrectly detailed in the 2018-2019 Annual Report which has been corrected above.

Graph 2.2: Number of references and appeals decided by year April 2015-March 2020

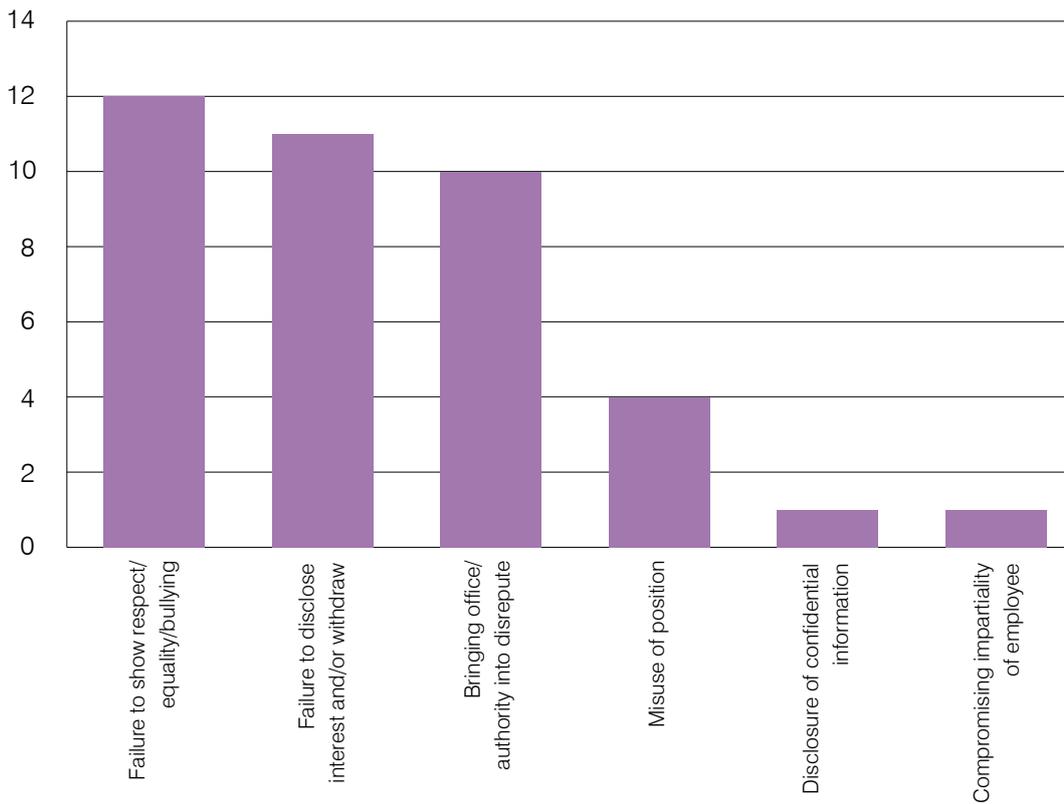


Charts 2.3: Outcomes of references and appeals April 2015-March 2020

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 2015-March 2020



Hearings data

During 2019-2020:

Type	Length (in days)
Reference	5 hearing days
Appeal	0 hearing days

There was also 3 telephone conferences which took place in relation to these cases.

Onward appeals

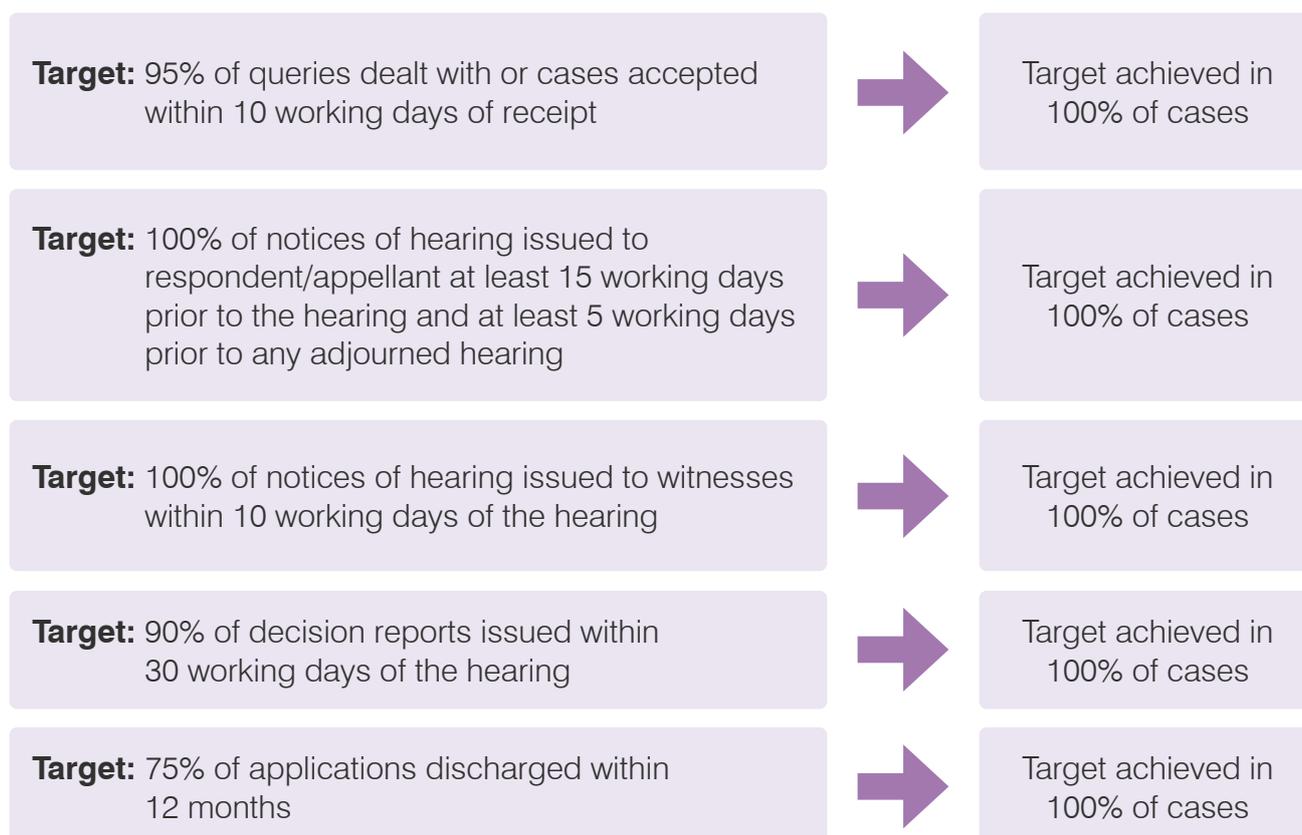
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

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 2018-2019



Complaints

The APW received no formal complaints during the reporting period.

Section 3 – Case summaries

In this section:

- References
- Appeals

References

During the reporting period, 3 case tribunals took place resulting from a reference from the Ombudsman. A summary of the cases determined by the APW appears below.

APW/001/2018-019/CT

Monmouthshire County Council (currently Mathern Community Council)

The allegations were that the councillor had breached the Code of Conduct of Monmouthshire County Council by conducting himself in a manner which could reasonably be regarded as bringing his office or the authority into disrepute.

The conduct arose during a previous case tribunal involving the councillor (in which he had been found to have homophobic statements over several months in 2016 and had been suspended by Panel for two months) and shortly after that hearing. The councillor made two statements in July 2018 when the Panel was delivering its finding regarding sanction at the first case tribunal and in a letter sent afterwards to the Panel, which were alleged to be a breach of paragraph 6(1)(a) of the Code.

The case tribunal dismissed the reference on the basis that the Public Services Ombudsman for Wales had not received a written allegation as required under section 69(1) of the Local Government Act 2000 to commence an investigation to come before a second case tribunal. It did not accept that the Ombudsman could rely on the written allegation received for the first case tribunal as the allegations before the second case tribunal did not come to his attention as a result of the investigation undertaken for the first case tribunal.

APW/002/2018-019/CT

Powys County Council and Brecon Beacons National Park Authority

The allegations were that the councillor had breached the Code of Conduct for Powys County Council and Brecon Beacons National Park Authority by failing to show respect and consideration for others, conducting himself in a manner which could reasonably be regarded as bringing his office or the authority into disrepute, and using or attempting to use his position improperly to confer on or secure for himself or any other person an advantage or create or avoid for himself or any other person a disadvantage.

The proceedings arose from an incident at a meeting of the National Park Authority where the councillor made contact with part of another councillor's anatomy, which led to a complaint being raised. The accused councillor later made a number of comments to third parties which appeared to be threatening consequences if the complaint was continued; these comments led to a new complaint from one of the third parties present.

The case tribunal found by unanimous decision that the councillor had failed to comply with the Code of Conduct for Powys County Council and Brecon Beacons National Park Authority as follows.

- You must show respect and consideration for others (paragraph 4(b));
- 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)).

The case tribunal concluded by unanimous decision that the councillor should be suspended for four months from being a member of Powys County Council and Brecon Beacons National Park Authority within the meaning of the Local Government Act 2000. It also recommended that the councillor received further training regarding his duties under the Code of Conduct from or on behalf of the monitoring officer of the Brecon Beacons National Park Authority by 31 January 2020.

APW/001/2019-020/CT Flintshire County Council

The allegations were that the councillor had breached the Code of Conduct of Flintshire County Council by conducting himself in a manner which could reasonably be regarded as bringing his office or the authority into disrepute; by using or attempting to use his position improperly to confer on or secure for himself or any other person an advantage or create or avoid for himself or any other person a disadvantage; and by using or authorising others to use the resources of the authority imprudently, in breach of the authority's requirements, unlawfully, other than in a manner which is calculated to facilitate or to be conducive to the discharge of the functions of the authority or office to which he had been elected or appointed, or improperly for political or private purposes.

The allegations centred on alleged conduct by the councillor involving one member of council staff. It was alleged that the councillor had assisted the member of staff to giving her an opportunity to view interview questions, and that he had used or allowed the member of staff to use a vehicle hired through a council scheme in breach of paragraph 7(b) of the Code. It was further alleged that the councillor had conducted himself in a manner that could reasonably be regarded as bringing his office or the authority into disrepute through the use or authorisation of the use of the vehicle, and by the exchange of inappropriate messages, including those of a sexual nature, with the member of staff.

The case tribunal found by unanimous decision that the councillor had failed to comply with Flintshire County Council's 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)).

The case tribunal concluded by unanimous decision that the councillor should be suspended for three months from being a member of Flintshire County Council within the meaning of the Local Government Act 2000.

Appeals

One application to appeal was made to the President of the APW during the reporting period. Permission was granted to appeal the sanction imposed by the standards committee of the relevant authority and the appeal was concluded during the following financial year.

Section 4 – Business Priorities

In this section:

- Business priorities for 2020-2021

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 2020-2021

- Plan and deliver an all-members training event;
- Complete a communication strategy in order to inform the public in a more accessible manner about the APW and its work, including updating the APW website to include non-written forms of communication;
- Deliver an effective and efficient service, meeting key performance indicators;
- Provide further guidance to users on a variety of topics.

Section 5 – Expenditure

In this section:

- Expenditure for 2019-2020

Expenditure for 2019-2020

Content	Amount
Members Fees and Expenses (proceedings and training)	£30,072
Tribunal events (hearing and other costs)	£4,006
Total	£34,078

rounded to the nearest £1,000

SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER

AGENDA ITEM NO 6
 1 FEBRUARY 2021

ADJUDICATION PANEL FOR WALES PRACTICE DIRECTION

SUMMARY

This report advises Members of the Adjudication Panel for Wales Practice Direction in relation to processes of the Panel.

RECOMMENDATION

That Members note the Adjudication Panel for Wales Practice Direction.

1. ISSUE

- 1.1 The Adjudication Panel for Wales (APW) is an independent tribunal set up to determine alleged breaches of an Authority's Statutory Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.
- 1.2 The APW has issued the attached Practice Direction in relation to the processes of the Panel under Section 61(2) of the Wales Act 2017.
- 1.3 Members are requested to consider the contents of the APW Practice Direction.

2. RECOMMENDATION

- 2.1 That Members note the Adjudication Panel for Wales Practice Direction.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None

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APW/PD/01/2020**Adjudication Panel for Wales: Practice Direction 1****Response to a reference from the Public Services Ombudsman for Wales
("PSOW")**

1. The President of the Adjudication Panel for Wales (‘the Panel’) makes this direction under section 61(2) of the Wales Act 2017. It has been approved by the Welsh Ministers under section 61(4) of the same Act, following consultation with the President of the Welsh Tribunals under section 61(8).

Response to a reference from the PSOW

2. Following a reference to the President of the Adjudication Panel for Wales by the PSOW under section 71(3) of the Local Government Act 2000, a case tribunal (“the tribunal”) will be convened (either a full case tribunal or an interim case tribunal depending on the terms of the reference). The regulations governing the procedures of the tribunal are set out in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended) (“the Regulations”). The Regulations refer to “the accused person”; for the avoidance of doubt, this refers to a member of a relevant authority who is the subject of a reference to the President by the PSOW and in this Practice Direction such a person is referred to as “a member”.
3. The Schedule to the Regulations (“the Paragraphs”) sets out in detail the procedures to be followed.

Paragraph 3 states:

“(1) An accused person must deliver to the registrar a written reply acknowledging receipt of the notice and stating—

(a) whether or not that person intends

(i) to attend or be represented at the hearing, or

(ii) to dispute the contents of the report and, if so, on what grounds;

(b) the name and address and the profession of any person who is to represent him or her and whether such address is to be his or her address for service for the purposes of the adjudication; and

(c) whether that person wishes the hearing to be conducted in English or Welsh.

(2) Such reply shall be signed either by the accused person or by his or her nominated representative and shall be delivered to the address for the tribunal specified in the notice given under paragraph 2(c) above not later than 21 days after the date on which the notice was received or by such later date as the tribunal may allow.

(3) If no reply is received by the registrar within the specified time or any extension of time allowed by the tribunal, or if the accused person states in his

or her reply that he or she does not intend either to attend or be represented at the hearing or to dispute the contents of the report, the tribunal may determine the adjudication without a hearing.”

4. In order to comply with the obligation imposed upon her/him by paragraphs 3(1) and (2) of the Schedule as set out above, a member must complete in full the response form provided by the Panel and return it to the Panel, or provide a written reply containing all the information required by Paragraph 3(1) and (2), within 21 days of receipt of the notice of the reference from the Registrar. Statements such as “*to be confirmed*” or “*to be provided*” are not a full response and will not be regarded as complying with the requirements of Paragraph 3.
5. The failure to complete in full the response form, or to return a fully completed response form or written reply compliant with Paragraph 3, may trigger the application of Paragraph 3(3). The same may occur if a member declares that they do not intend to attend or be represented at a hearing. The tribunal may at its discretion then determine the reference without a hearing.
6. From the date hereof, when a response that is not fully compliant with Paragraph 3 is received or no response is received at all, the tribunal will determine the reference without a hearing, unless the tribunal considers that it is, in all the circumstances, in the interests of justice to hold a hearing. The tribunal will not direct that a second or further opportunity is given to provide a full response, unless it believes that it is in the interests of justice to do so. The onus will be on a member to persuade the tribunal that it is in the interests of justice to be given another opportunity to provide a response.
7. Paragraph 3(2) of the Schedule provides that a response shall be filed by a member or her/his representative within 21 days of the receipt of the notice of reference but it also empowers the tribunal to extend the time for a member to file a full response “*to such later date as the tribunal may allow*”. From the date hereof, applications for extensions of time must be made within the initial 21 day response window (unless this is not possible for good reason), and must be supported by evidence explaining why the extension is required and would be in the interests of justice.

Date: 1 January 2020

Signed:

Claire Sharp

President of the Adjudication Panel for Wales

SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER

AGENDA ITEM NO 7
 1 FEBRUARY 2021

ADJUDICATION PANEL FOR WALES PRESIDENTIAL GUIDANCE

SUMMARY

This report advises Members of the Adjudication Panel for Wales Presidential Guidance issued in September 2020.

RECOMMENDATION

That Members note the Adjudication Panel for Wales Presidential Guidance.

1. ISSUE

1.1 The Adjudication Panel for Wales (APW) is an independent tribunal set up to determine alleged breaches of an Authority's Statutory Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.

1.2 The APW has issued its first three pieces of Presidential Guidance during 2020:

- Anonymity (appendix 1)
- The role of the Monitoring Officer (appendix 2)
- Disclosure (appendix 3)

1.3 Members are requested to consider the contents of the APW Presidential Guidance.

2. RECOMMENDATION

2.1 That Members note the Adjudication Panel for Wales Presidential Guidance.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None

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Presidential Guidance: Anonymity

This guidance is not legally binding and is provided to assist monitoring officers, the parties, relevant authorities and their members, and the wider public to understand their role within Adjudication Panel for Wales (“APW”) proceedings. Nothing within this guidance constitutes legal advice and those considering this guidance are reminded that this guidance does not supersede their own duties, the requirements of their own Code of Conduct if applicable or their professional obligations.

Power to anonymise

1. The APW does not have the power to issue restricted reporting orders or control what is reported by the press or through social media. However, it does have the power to control its own proceedings and give directions to the parties, witnesses and third parties.
2. The law on the reporting of sexual offences and the naming of alleged victims (s.1 of the Sexual Offences (Amendment) Act 1992) applies to those publishing information about APW proceedings where relevant; where possible, the tribunal considering such matters will remind those in attendance of these provisions, but they apply whether or not such a reminder is given. The APW will give consideration about how to approach matters involving the possible commission of sexual offences and give the necessary directions to the parties prior to the start of the final hearing.
3. While in appropriate cases, the identity of a complainant, witness or third party may be anonymised at the direction of a APW tribunal or the President for the purposes of the hearing and decision, the identity of that individual will be known to the parties and the tribunal. The identity of the member subject to the proceedings will not be anonymised.

European Convention on Human Rights

4. The paramount object of the APW is to do justice in accordance with the right to a fair hearing, but if it is strictly necessary to withhold either evidence or the identity of an individual from public consideration because it is in the interests of justice to do so, this can be directed following a balanced consideration of the various rights of those involved and the open justice principle. The Convention entitles parties to a fair and public hearing, but the press and public may be excluded from all or part of the hearing where the interests of the parties so require, or to the extent strictly necessary where publicity would prejudice the interests of justice.

5. Rights that may be engaged include the right to privacy and the right to a family life, as well as the right to freedom of expression, which is generally always engaged in APW proceedings. Examples of when such rights may be engaged could include the disclosure of medical information pertaining to a witness (such information being confidential), painful and humiliating disclosure of personal information about a witness where there is no public interest in its being publicised, or disclosure of information affecting minors.

The approach of the APW

6. APW final hearings take place in public, except where the tribunal considers that publicity would prejudice the interests of justice. However, anonymisation can allow all or the majority of the hearing to take place in public, enabling the public to fully understand the proceedings without breaching the rights of the individual whose identity has been concealed. This is compliant with the open justice principle; it is less restrictive to anonymise individuals than to have a private hearing in whole or in part.
7. It is appreciated that some complainants will only make a complaint if anonymisation at the hearing is likely. The quality of the evidence given at a hearing may be diminished due to fear or distress if anonymity is not granted. Only the tribunal hearing the case or the President can make such a direction – no party can guarantee anonymity to a complainant, witness or third party.
8. When considering whether to direct anonymisation, the tribunal will consider and balance the rights of the individual involved against the open justice principle and the right to a fair hearing in public, and the likely effect of anonymisation (or failure to do so) on the evidence to be adduced. It will also consider whether the identity of the individual is already widely known, rendering anonymisation pointless. Reasons will be provided to the parties for its decision.
9. If an interested person, such as the press, wishes to apply to set aside the anonymity order, they may apply to the tribunal for the application to be heard. It is a matter for the tribunal when the application is considered, but the views of the parties will be sought and considered. The view of the individual themselves may or may not be sought, depending on the approach adopted by the tribunal.

Practical measures

10. To guard against inadvertent disclosure, at the outset of the hearing and at the start of a relevant witness' evidence the chair will remind the parties, witnesses and the public that a particular individual's identity has been anonymised and they should be referred to as "Witness A/B/C/ etc" or "Mr/Ms A/B/C etc".
11. The hearing bundle may be redacted or altered to ensure that the name of the anonymised person is as directed, depending on the directions of the tribunal. The witness bundle and any press bundle (if prepared) must be so redacted or altered to avoid disclosure of the identity if inspected by the press or public.

12. The tribunal may direct use of special measures, such as a screen or video link, to enable the witness to give their evidence without disclosure of their identity.
13. Prior to the commencement of APW proceedings, if the parties anticipate that it is highly likely the identity of a witness or third party will be anonymised while gathering evidence, they may submit a suitably redacted version of the evidence (only anonymising the name of the individual and replacing with an appropriate anonymised name) to the APW for inclusion within the bundle. However, the original evidence must be disclosed to the other party, either before the matter is sent to the APW or when the redacted evidence is disclosed to the APW. The redaction must be brought to the tribunal's attention in a covering letter, and the letter must also include the reasons for the redaction and an application for directions permitting the anonymisation as sought.
14. The APW expects the parties to attempt to agree the issue of anonymisation before submitting an anonymised bundle to the panel, but if agreement cannot be reached, provided the process outlined above is followed, one party may request anonymity for an individual/s and submit an anonymised bundle for the approval of the panel or President.

Claire Sharp

Llywydd, Panel Dyfarnu Cymru/ President, Adjudication Panel for Wales

September 2020

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Presidential Guidance: The role of the Monitoring Officer in APW proceedings

This guidance is not legally binding and is provided to assist monitoring officers, the parties, relevant authorities and their members, and the wider public to understand the role of the monitoring officer within Adjudication Panel for Wales (“APW”) proceedings. Nothing within this guidance constitutes legal advice and monitoring officers are reminded that this guidance does not supersede their duties, the requirements of the Code of Conduct for Employees or professional obligations.

The position of the monitoring officer

1. The monitoring officer of a relevant authority whose Code of Conduct is at the centre of APW proceedings is not a party to the proceedings, but is present to assist and inform the tribunal. They are notified of the proceedings and the hearing date, and receive copies of the listing directions and final decision. The monitoring officer normally adopts a neutral role.

Attendance at the final hearing

2. The monitoring officer is invited to attend the final hearing (or to send a deputy) to assist the tribunal and to make an appropriate observation or comment if they so wish at each stage of the proceedings. This is an opportunity for the monitoring officer to clarify any procedural points regarding the business of the relevant authority or to provide factual information to the tribunal in relation to any evidence already before it. It is open to the officer to make no comment.
3. The tribunal’s invitation to speak at the oral hearing is not an opportunity for the monitoring officer to adduce new evidence not previously disclosed; any evidence which they wish to provide should generally be provided either direct to the Registrar when directed by the tribunal or to the Public Services Ombudsman for Wales (“PSOW”) for his consideration (see the disclosure section below).
4. The monitoring officer may ultimately be asked to provide or arrange further training to the councillor or to action matters relating to the exercise of the authority’s functions, the authority’s Code, or the authority’s standards committee if so recommended by the tribunal. Their attendance at the hearing will also enable the monitoring officer to give a detailed report to the standards committee and Council and to deal with any press enquiries as appropriate.

Information required from the monitoring officer

5. Routine enquiries that may be made of the monitoring officer by either the PSOW or the tribunal through its directions or correspondence through the Registrar include confirmation as to when the councillor agreed to be bound by the Code, when the councillor received training on the Code or if the councillor is also a member of another relevant authority, such as a town or community council or national park authority. They will also be asked to confirm the dates of full council meetings or relevant council business that might affect the listing of the hearing, and their personal unavailability dates.
6. The Registrar of the APW will ask the monitoring officer to confirm if there have been any previous adverse findings made by a standards committee regarding a breach of the Code by the councillor; this information will not be disclosed to the tribunal unless it reaches the sanctions stage of the proceedings. At this stage, the clerk will provide this information to the tribunal but the monitoring officer will be given an opportunity to comment, amplify or update the information supplied orally at the hearing.

Disclosure

7. Generally, monitoring officers are not expected to take an active part in APW proceedings. Prior to proceedings, the PSOW is likely to have collected relevant evidence from the relevant authority, including from the monitoring officer, and this evidence will either be exhibited to the PSOW's final report or set out in an unused material schedule provided with the report.
8. However, it is possible that the monitoring officer may hold relevant evidence that has not been disclosed to the PSOW or is approached by the councillor or his representatives to disclose evidence. Monitoring officers should not "*descend into the arena*" and are expected to remain neutral in accordance with the requirements of their role. It is appropriate for a monitoring officer to correct a factual mistake made by a witness (as part of their role outlined above to provide factual information to the tribunal in relation to any evidence already before it), but they should not adopt a position about the decision to be made by the tribunal. Equally, it is appreciated that the monitoring officer may need to be a witness in their own right if they witnessed a disputed event or made the initial complaint (for example on behalf of junior officers); this is not regarded as outside their neutral role provided the evidence only deals with factual matters.
9. Monitoring Officers are reminded that if they carried out the investigation (as opposed to the PSOW), Regulation 5 of Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the Regulations") will apply, and the APW is not listed as an entity that can lawfully be a direct recipient of information obtained by the monitoring officer when conducting the investigation, unlike the PSOW. The APW does have the power to require evidence from any person through directions and orders under Regulation 7, including information gathered by the monitoring officer under Regulation 5.

10. The standard direction given to monitoring officers in correspondence from the Registrar is that any evidence which they wish to provide should generally be provided either direct to the Registrar when directed by the tribunal or to the PSOW for his consideration. This addresses any concerns that may be raised by either the regulations or data protection legislation in the overwhelming majority of cases about the disclosure of documents by the monitoring officer.
11. Once APW proceedings are underway, it is the tribunal which decides what evidence is within the hearing bundle (subject to applications by the parties where relevant). If a monitoring officer is concerned that they hold relevant evidence which has not been previously disclosed to the PSOW and APW proceedings have commenced, they should either consider making an application to the tribunal seeking directions on their own initiative to enable disclosure to the PSOW, the councillor/councillor's representatives and the tribunal, or disclose the evidence to the PSOW (who has undertaken to ensure the councillor then receives such evidence). Disclosure applications to the tribunal should be made at the earliest possible opportunity to avoid delay to the final hearing.
12. If a monitoring officer is requested to keep a request for disclosure confidential by one of the parties, it is a matter for their professional judgment whether to agree, but the APW expects that disclosure should not be made outside of its directions (whether through the direction set out in its standard letter to monitoring officers or case-specific directions made by the tribunal) or this guidance once its proceedings have commenced. This is to ensure a fair hearing once the APW proceedings are underway and to enable both parties to receive disclosure.

Claire Sharp

Llywydd, Panel Dyfarnu Cymru/ President, Adjudication Panel for Wales

September 2020

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Presidential Guidance: Disclosure

This guidance is not legally binding and is provided to assist monitoring officers, the parties, relevant authorities and their members, and the wider public to understand their role within Adjudication Panel for Wales (“APW”) proceedings. Nothing within this guidance constitutes legal advice and those considering this guidance are reminded that this guidance does not supersede their own duties, the requirements of their own Code of Conduct if applicable or their professional obligations.

General

1. Unlike *inter partes* litigation (litigation where one party is suing another), the APW deals with references made by the Public Services Ombudsman for Wales (“PSOW”) and appeals brought by members following a decision by a standards committee on the issue of whether the Code of Conduct for members has been breached (and if so, the appropriate sanction). In all cases, the member and the PSOW are parties and entitled to submit evidence, ask for witnesses to be called, and make representations. However, it is a matter for the tribunal to determine what evidence is before it, provided that a fair hearing is undertaken.
2. The tribunal may receive evidence of any fact which appears to the tribunal to be relevant, notwithstanding that such evidence would be inadmissible in proceedings before a court of law. It shall not refuse to admit any evidence which is admissible at law and is relevant. In other words, the tribunal should allow evidence to be adduced if it is fair to do so (in the interests of justice) and the evidence is relevant to the determinations it must make; it can exclude irrelevant evidence.
3. The parties are reminded that disclosure is key to a fair hearing and that evidence should be provided to the other party and the APW in advance and in good time before a final hearing; attempts to “ambush” the other party are not in accordance with the spirit of modern litigation practice. It is also inappropriate to ask those who are approached to give or supply evidence to keep the approach confidential from the other party or the APW, particularly monitoring officers, other officers or members of a relevant authority; this does not mean such a person cannot be asked to generally keep the approach confidential, but not in relation to the other party or the APW.

Before APW proceedings start

4. Prior to the commencement of APW proceedings, in the vast majority of cases the PSOW will have undertaken a full investigation (monitoring officers can conduct

investigations in certain circumstances, but generally they ask the PSOW to do so). The PSOW will have gathered evidence from the member, witnesses and relevant third parties, carried out interviews, and asked the member to comment on the draft report.

5. A final report is issued by the PSOW, setting out the allegations originally made, the evidence gathered, and his conclusions. The evidence relied upon by the PSOW is exhibited to the final report and served upon the member and either the standards committee or APW.
6. The PSOW has agreed to serve upon the member (and the APW when a reference is made) a schedule setting out what unused material exists to its knowledge (this is material not used to prepare the final report), what it is, and its location (as the PSOW may not hold such material; for example, the monitoring officer may hold it) when the final report is issued. The schedule of unused material may be in two sections – ordinary evidence and sensitive evidence. Sensitive evidence is defined for these purposes as evidence relating to national security, given in expectation of confidence, relating to a criminal investigation or proceedings, relating to a minor, or relating to the private life of a witness (not the member) or third party. If the member seeks disclosure of evidence listed within the unused material schedule, it should be sought within 28 days of receipt of the schedule to avoid unnecessary delay by the member or his representatives. The tribunal may also direct disclosure of a document from the unused material schedule, but it is not obliged to do so.

Once APW proceedings start

7. Once the reference is made by the PSOW or permission to appeal has been given by the President of the APW (or their delegate), the Panel becomes responsible for deciding what evidence may be adduced. It will give directions where appropriate, but broadly the following principles apply:
 - a) The final report and evidence exhibited with it will form part of the hearing bundle if it is relevant and in the interests of justice to be considered by the tribunal (attention is drawn to paragraph *h* below);
 - b) The response of the member or their application to appeal will form part of the hearing bundle;
 - c) Evidence submitted by the member with their response will form part of the hearing bundle if it is relevant and in the interests of justice to be considered by the tribunal (attention is drawn to point *h* below);
 - d) Any decision made by the standards committee and supporting evidence where provided by either the parties or monitoring officer (if not already within the PSOW's final report) will form part of the hearing bundle;
 - e) Correspondence between the APW and the parties will form part of the hearing bundle, as will listing and other directions or orders;

- f) Submissions from the parties may form part of the hearing bundle (unless made orally), but is not evidence;
- g) Any additional evidence the parties wish to be considered, apart from paragraphs a – e, must either be the subject of an application made to the tribunal or included by way of directions from the tribunal on its own initiative. Applications should be made in good time before the final hearing commences to allow the tribunal to seek the view of the other party and deliver its decision; such applications should be made no later than 28 clear days before the final hearing commences, but the expectation is that such applications should be made before the listing conference. Applications to adduce evidence made at the final hearing or within the 28 day period preceding the start of the final hearing will be viewed as a late application and good reasons as to why the application could not have been made earlier will be required to be given, as will an explanation as to why late disclosure is in the interests of justice;
- h) The tribunal has the right to exclude irrelevant evidence from the hearing bundle and to determine which witnesses will be called to give evidence. It is expected that the parties will be notified in advance and given reasons if evidence is to be excluded.

Powers of the APW

- 8. The APW has the power to require documents or ask for particulars from any person, whether or not they are a party or interested party to the proceedings. If a party requires evidence or information from any person in order to fairly put forward their case to the APW, and they have not been able to obtain it directly themselves (attention is drawn below to the special position of monitoring officers), they should apply to the APW for directions or an order to obtain the evidence or particulars.
- 9. Applications should be made in good time before the final hearing, and ideally before the listing conference. Such applications should not be made at the final hearing or within the 28 day period before the start of a final hearing as costs will already have been incurred by the parties and the APW which may be wasted (the parties should note that the APW does in certain circumstances have the power to make costs orders). The parties should bear in mind that sufficient time should be given to allow submissions to be made by the other party and for the tribunal to make a decision – this is likely to take at least 28 days.

The monitoring officer

- 10. The monitoring officer is notified of the proceedings and invited to attend the final hearing. The monitoring officer's role is set out in more detail in the Presidential Guidance "*The role of the Monitoring Officer in APW proceedings*". The section relating to disclosure and monitoring officers is repeated below for convenience and to ensure that the parties understand that the monitoring officer is neutral and has a key role in upholding standards.

11. Generally, monitoring officers are not expected to take an active part in APW proceedings. Prior to proceedings, the PSOW is likely to have collected relevant evidence from the relevant authority, including from the monitoring officer, and this evidence will either be exhibited to the PSOW's final report or set out in an unused material schedule provided with the report.
12. However, it is possible that the monitoring officer may hold relevant evidence that has not been disclosed to the PSOW or is approached by the councillor or his representatives to disclose evidence. Monitoring officers should not "*descend into the arena*" and are expected to remain neutral in accordance with the requirements of their role. It is appropriate for a monitoring officer to correct a factual mistake made by a witness (as part of their role outlined above to provide factual information to the tribunal in relation to any evidence already before it), but they should not adopt a position about the decision to be made by the tribunal. Equally, it is appreciated that the monitoring officer may need to be a witness in their own right if they witnessed a disputed event or made the initial complaint (for example on behalf of junior officers); this is not regarded as outside their neutral role provided the evidence only deals with factual matters.
13. Monitoring Officers are reminded that if they carried out the investigation (as opposed to the PSOW), Regulation 5 of Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the Regulations") will apply, and the APW is not listed as an entity that can lawfully be a direct recipient of information obtained by the monitoring officer when conducting the investigation, unlike the PSOW. The APW does have the power to require evidence from any person through directions and orders under Regulation 7, including information gathered by the monitoring officer under Regulation 5.
14. The standard direction given to monitoring officers in correspondence from the Registrar is that any evidence which they wish to provide should generally be provided either direct to the Registrar when directed by the tribunal or to the PSOW for his consideration. This addresses any concerns that may be raised by either the regulations or data protection legislation in the overwhelming majority of cases about the disclosure of documents by the monitoring officer.
15. Once APW proceedings are underway, it is the tribunal which decides what evidence is within the hearing bundle (subject to applications by the parties where relevant). If a monitoring officer is concerned that they hold relevant evidence which has not been previously disclosed to the PSOW and APW proceedings have commenced, they should either consider making an application to the tribunal seeking directions on their own initiative to enable disclosure to the PSOW, the councillor/councillor's representatives and the tribunal, or disclose the evidence to the PSOW (who has undertaken to ensure the councillor then receives such evidence). Disclosure applications to the tribunal should be made at the earliest possible opportunity to avoid delay to the final hearing.

16. If a monitoring officer is requested to keep a request for disclosure confidential by one of the parties, it is a matter for their professional judgment whether to agree, but the APW expects that disclosure should not be made outside of its directions (whether through the direction set out in its standard letter to monitoring officers or case-specific directions made by the tribunal) or this guidance once its proceedings have commenced. This is to ensure a fair hearing once the APW proceedings are underway and to enable both parties to receive disclosure.

Claire Sharp

Llywydd, Panel Dyfarnu Cymru/ President, Adjudication Panel for Wales

September 2020

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SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER

AGENDA ITEM NO 8
1 FEBRUARY 2021

INDEPENDENT REMUNERATION PANEL FOR WALES' DRAFT ANNUAL REPORT – FEBRUARY 2021

SUMMARY

This report brings to Members' attention the relevant sections of the Independent Remuneration Panel for Wales' Draft Annual Report that relate to payments to Members of Welsh Fire & Rescue Authorities.

RECOMMENDATIONS

That Members note the extract of the Independent Remuneration Panel's Draft Annual Report, attached at Appendix 1, which provides details of payments to Members of Welsh Fire & Rescue Authorities.

1. BACKGROUND

- 1.1 As Members will be aware, the Local Government (Wales) Measure 2011 gave powers to the Independent Remuneration Panel for Wales to determine and review the remuneration of Members of Local Authorities, National Park Authorities, Fire & Rescue Authorities and Town & Community Councils.
- 1.2 The Panel is also required to produce an Annual Report and consult on this prior to its issue. The Panel has now issued its draft report, and the relevant extracts for Members are attached at Appendix 1 to this report.

2. RELEVANT ISSUES

- 2.1 Members will note that the proposals for Councillors' remuneration for Fire & Rescue Authority duties recommend an increase for the 2021/22 municipal year of salaries as follows:
- Basic salary £2,026 per annum
 - Senior Salary £5,765 per annum (inclusive of basic salary)
 - Chair Of Fire Authority Salary £10,818 per annum (inclusive of basic salary)
- 2.2 Members will note that the report also attributes a significant section this year to the Panels review of contributions towards the costs of care and personal assistance. This is as a consequence of slow take up of this allowance and the tax implications of these payments. The payments under this section have therefore been significantly updated, together with the requirement for receipts for both formal and informal care. The panel have also stated that "care costs cannot be paid to someone who is a part

of a member's household". Officers have sought further clarity on what the panel mean by this and early indications from the panel suggest that it means living in the same house as the Member, although they have indicated that they will consider this issue further once the consultation period has closed to provide further clarity.

3. EQUALITY RISK ASSESSMENT

- 3.1 There are no equality impacts arising directly as a result of the draft report as the report is intended to apply to all Elected Members equally regardless of protected characteristics. Additionally, the Independent Remuneration Panel will be responsible for undertaking their own equality risk assessment of the implications of their report prior to its publication in February 2021.

4. RECOMMENDATION

- 4.1 That Members note the extract of the Independent Remuneration Panel's Draft Annual Report, attached at Appendix 1, which provides details of payments to Members of Welsh Fire & Rescue Authorities.

Contact Officer:	Background Papers:
Sally Chapman Deputy Chief Officer	Appendix 1 - Independent Remuneration Panel for Wales' Draft Annual Report



Independent Remuneration Panel for Wales

Annual Report

DRAFT

February 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

ANNUAL REPORT 2021

FOREWORD

As with very many organisations the coronavirus pandemic has impacted on the work of the Panel. However, we have continued to meet regularly to carry out our statutory function via Microsoft Teams.

We completely understand the implications that the pandemic has had and continues to have on all local authorities in Wales, so we have limited the extent of the changes to our Remuneration Framework this year. It is important that the payments to elected members of principal councils should not fall further behind average earnings so this draft report proposes modest increases in the basic salary with appropriate adjustments for members of other organisations.

The membership of the Panel has changed. Roger Symonds' term of office ended on 31 May and two new members, Claire Sharp and Joe Stockley who were appointed from 1 January and 1 June respectively. Sadly, long standing member, Stephen Mulholland passed away earlier this year after a short illness. His contribution to the work of the Panel over many years was significant and he will be missed.

John Bader
Chair

Panel Membership
John Bader, Chair
Greg Owens, Vice Chair
Saz Willey
Claire Sharp
Joe Stockley

Detailed information about the members can be found on the website: [Panel website](#)

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Introduction

This is the thirteenth Annual Report of the Independent Remuneration Panel for Wales (the Panel), and the tenth published under the requirements of the Local Government (Wales) Measure 2011 (as amended).

1. Although this draft Report is in respect of the Panel's determinations for 2021/2022 our consideration has inevitably been influenced by the impact of the coronavirus pandemic. The ongoing issues affect the operation of all local authorities and will continue to do so for the foreseeable future.
2. As with all the Panel's Annual Reports the determinations on member remuneration are underpinned by the principles set out in Section 1. In May 2020 we published a [Supplementary Report](#) that set out specific principles relating to the provision of financial support for care needs. These are incorporated in Section 10 and will be included in future Annual Reports.
3. The Panel has consistently expressed its view that maintaining the democratic values of local governance cannot be cost free. Members of local authorities (including co-opted and appointed members) are there to represent the interests of local people, undertake the governance of local communities, and secure appropriate value for money public services for local tax-payers through effective scrutiny for which they are accountable to their community. These are significant and important tasks for members of the relevant authorities within the Panel's remit. Payments to members are made available to encourage a diversity of willing and able people to undertake local governance through their elected, appointed or co-opted roles.
4. In determining the level of payments to members of local authorities, the Panel seeks to meet the principle of 'acceptability' by ensuring that these are not 'so great as to require a significant diversion of resources from key council priorities'. But Section 142(8) of the Measure is more explicit on 'affordability' when it states that "when setting an amount¹, the Panel must take into account what it considers will be the likely financial impact of doing so on relevant authorities". The Panel acknowledges that the issue of affordability – in relation both to relevant authorities' service budgets and to the electorate's disposable incomes – is likely to impact on the public perception of any increases to members' payments. It is therefore a matter of balancing issues of affordability and public perception with fairness to members for their time, worth and responsibility.
5. The Panel originally set the basic salary of elected members of principal councils at three-fifths of the All Wales Median Salary and senior salaries were set at multiples of this annual median salary. In setting these salaries the Panel recognised that there was an unpaid public service contribution.
6. The financial constraints on the public sector and particularly on local authorities over many years have meant that the link with average Welsh earnings has not been maintained. The Panel considers that this has undervalued the worth of elected members. To minimise further erosion in relation to average earnings the Panel proposes to increase the basic annual salary by £150. Other payments that are based on the basic salary will be adjusted accordingly.

7. Payments for members of National Park Authorities and Fire and Rescue Authorities will increase as a result of the uplift proposed for principal councils. One other change proposed for these authorities is to remove the limitation on the number of senior salaries that can be paid.
8. The payment information provided by relevant authorities show that still very few members are utilising the provision in the framework to reimburse the costs of care. We reiterate the importance that Democratic Services Committees encourages and facilitates greater use of this element of our framework so that members concerned are not financially disadvantaged. We are proposing significant changes regarding the costs of care which are set out in Section 10.
9. The Panel has continued to contribute wherever possible to enhancing diversity in local government in Wales through its determinations. The Panel produces leaflets for prospective candidates on the remuneration of members of councils. We are pleased that several councils include this leaflet on their websites. In addition we have produced a short film [Ever thought about being a Welsh councillor?](#) This can be viewed on our website.
10. We continue to engage with community and town councils and have met with numerous representative groups. Unfortunately the extent of engagement has been curtailed as a consequence of COVID 19. For 2021/2022 we are not proposing any specific changes to payments in respect of community and town councils.
11. The Panel's Regulations have been updated to reflect changes to the remit (see Annex 2).
12. One issue that has arisen again, particularly in the context of the pandemic lockdown is the action of the Council in respect of the Reports of the Panel which it receives. When the Panel's Annual Report is issued, principal councils must comply with the statutory requirements and apply all the relevant determinations. The proper officer of the council must put in place mechanisms for all eligible council members to receive payments as determined by the Panel. There are currently no options relating to levels of remuneration by principal councils that require a decision by full council. Levels of payments to which members are entitled cannot be varied by a vote of a principal council.
13. Only an individual member may communicate in writing to the proper officer if, as *an individual*, they wish to decline all or part of the payment to which they are entitled.

14. How the IRPW Annual Report is formally received or noted by full council is not a matter that is within the Panel's statutory remit. Individual constitutions or standing orders of councils may vary as to matters that may be submitted to full council for consideration. It is for each council to decide how they wish to manage receipt of the IRPW statutory Annual Report and if appropriate seek the advice of their legal officers. However, all council members and officers should take care that no misleading statements are made or reported in media, in particular, an indication that a council has taken a decision to reduce or vary levels of payments. There are no powers that permit a principal council to take such action.

¹ [Local Government \(Wales\) Measure 2011](#)

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1. The Panel's Framework: Principles of Members' Remuneration

Upholding trust and confidence

- 1.1 Citizens rightly expect that all those who choose to serve in local authorities uphold the public trust by embracing the values and ethics implicit in such public service. These principles underpin the contribution that the work of the Panel and its Framework make towards upholding public trust and confidence.

Simplicity

- 1.2 The Framework is clear and understandable. This is essential for the Panel to be able to communicate its determinations effectively to all those who are affected by, or who have an interest in its work.

Remuneration

- 1.3 The Framework provides for payment to members of local authorities who carry a responsibility for serving their communities. The level of payment should not act as a barrier to taking up or continuing in post. There should be no requirement that resources necessary to enable the discharge of duties are funded from the payment. The Framework provides additional payments for those who are given greater levels of responsibility.

Diversity

- 1.4 Democracy is strengthened when the membership of local authorities adequately reflects the demographic and cultural make-up of the communities such authorities serve. The Panel will always take in to account the contribution its Framework can make in encouraging the participation of those who are significantly under-represented at local authority level.

Accountability

- 1.5 Taxpayers and citizens have the right to receive value for money from public funds committed to the remuneration of those who are elected, appointed or co-opted to serve in the public interest. The Panel expects all authorities to make information readily and appropriately available about the activities and remuneration of their members.

Fairness

- 1.6 The Framework will be capable of being applied consistently to members of all authorities within the Panel's remit as a means of ensuring that levels of remuneration are fair, affordable and generally acceptable.

Quality

- 1.7 The Panel recognises that the complex mix of governance, scrutiny and regulatory duties incumbent upon members requires them to engage with a process of continuous quality improvement. The Panel expects members to undertake such training and personal development opportunities as required to properly discharge the duties for which they are remunerated.

Transparency

- 1.8 Transparency of members' remuneration is in the public interest. Some members receive additional levels of remuneration by virtue of being elected or appointed to more than one public body. The Framework serves to ensure that knowledge of all members' remuneration is made easily available to the public.

Remuneration of Officers

- 1.9 The Panel applies these principles of fairness, accountability and transparency in all its determinations in relation to remuneration of members of all the authorities that fall within its remit. The same principles also apply when the Panel is required to make recommendations in relation to the remuneration of the heads of paid service of these authorities.

2. Annual Report Summary Page

Type of Payment	Type of Authority			
	Principal Councils	National Park Authorities	Fire and Rescue Authorities	Community and Town Councils
Basic Salary	page 11	page 25	page 28	N/A ²
Senior Roles	page 14	page 25	page 28	page 41
Committee Chairs	page 13	page 25	page 28	N/A
Opposition Groups	page 14	N/A	N/A	N/A
Civic Heads and Deputies	page 15	N/A	N/A	page 44
Presiding Members	page 16	N/A	N/A	N/A
Mileage	page 38	page 38	page 38	page 42
Other Travel Costs	page 38	page 38	page 38	page 42
Subsistence Costs	page 39	page 39	page 39	page 42
Costs of Care	page 32	page 32	page 36	page 32
Family Absence	page 23	N/A	N/A	N/A
Sickness Absence	page 36	page 36	page 30	N/A
Joint Overview and Scrutiny Committees	page 21	N/A	N/A	N/A
Pension	page 22	N/A	N/A	N/A
Co-optees	page 30	page 30	page 30	N/A
Specific or Additional Allowances	page 18	N/A	N/A	N/A
Payments to Community and Town Councillors	N/A	N/A	N/A	page 40
Compensation for Financial Loss	N/A	N/A	N/A	page 43
Statement of Payments	page 73	page 73	page 73	page 73
Schedule of Remuneration	Page 71	Page 71	Page 71	N/A
Salaries of Head of Paid Services	Page 49	N/A	Page 49	N/A

² Not Applicable

8. Payments to Members of Welsh Fire and Rescue Authorities (FRAs)

Structure of Fire and Rescue Authorities

- 8.1 The three Fire and Rescue Services (FRAs) in Wales: Mid and West Wales, North Wales and South Wales were formed as part of Local Government re-organisation in 1996.
- 8.2 FRAs comprise elected members who are nominated by the Principal Councils within each Fire and Rescue Service area.
- 8.3 The structure of the each of the three FRAs is set out in Table 5.

Table 5: Membership of Fire and Rescue Authorities

Name of Fire and Rescue Authority	Number of Local Authority Members
Mid and West Wales	25: Carmarthenshire County Council – 5 Ceredigion County Council – 2 Neath Port Talbot County Borough Council – 4 Pembrokeshire County Council – 3 Powys County Council – 4 Swansea City and County Council – 7
North Wales	28: Conwy County Borough Council – 5 Denbighshire County Council – 4 Flintshire County Council – 6 Gwynedd Council – 5 Isle of Anglesey County Council – 3 Wrexham County Borough Council – 5
South Wales	24: Bridgend County Borough Council – 2 Blaenau Gwent County Borough Council – 1 Caerphilly County Borough Council – 3 Cardiff City Council – 5 Merthyr Tydfil County Borough Council – 1 Monmouthshire County Council – 2 Newport City Council - 2 Rhondda Cynon Taf County Borough Council - 4 Torfaen County Borough Council – 2 Vale of Glamorgan Council -2

- 8.4 In addition, Standards Committees of FRAs have independent co-opted members whose remuneration is included in the Framework as set out in Section 9.

8.5 In considering remuneration of members of FRAs, the Panel has based its determinations on the following key points:

- The Chair has a leadership and influencing role in the authority, and a high level of accountability especially when controversial issues relating to the emergency service arise. In addition to fire authority meetings, all FRAs have committees that include in different combinations: audit, performance management, scrutiny, human resources, resource management as well as task and finish groups and disciplinary Panels. As well as attending formal meetings of the authority and committees, members are encouraged to take on a community engagement role, including visiting fire stations.
- There is a strong training ethos in FRAs. Members are expected to participate in training and development. Induction programmes are available as well as specialist training for appeals and disciplinary hearings.
- Training sessions often follow on from authority meetings to make the training accessible.

Basic and Senior Salaries

8.6 The time commitment on which the remuneration is based is 22 days. The salary for members of FRAs will increase to £2,026.

8.7 The Panel determined that the remuneration of a FRA Chair should be aligned to that part of a Band 3 senior salary received by a committee chair of a principal council. This salary will increase to £10,818.

8.8 The Panel determined that the remuneration of a FRA Deputy Chair will be aligned with the Band 5 senior salary for principal councils. This will increase to £5,765 and must be paid if the authority appoints a deputy chair.

8.9 The Panel has previously determined that up to two other committee Chairs can be remunerated. If the FRA considered this was restrictive, there was an option to apply for additional Senior Salary. It is proposed that this restriction is removed and that FRAs determine the number of Senior posts it requires as appropriate to its governance arrangements. The determination relating to the application for additional senior salaries is removed. Committee Chairs and any other senior post if remunerated will be aligned with Band 5. This will increase to £5,865.

Local Pension Boards

8.10 The Panel has considered requests from FRAs to allow them to pay salaries to Chairs of local pension boards established under the Firefighters' Pension Scheme (Wales) Regulations 2015. Those Regulations already give FRAs the power to decide how local pension boards are to work and to pay the Chair and members if they wish. Therefore, it is not appropriate for the Panel to make a determination empowering FRAs to pay salaries to local pension board Chairs. The senior salaries in Determination 26 or 27 cannot be used exclusively for this role.

8.11 The Panel has made the following determinations:

Determination 26: The basic salary for FRA ordinary members shall be £2,026 with effect from 1 April 2021.

Determination 27: The senior salary of the Chair of an FRA shall be £10,818 with effect from 1 April 2021.

Determination 28: An FRA senior salary of £5,765 must be paid to the Deputy Chair where appointed.

Determination 29: Chairs of committees or other senior posts can be paid. This shall be paid at £5,765.

Determination 30: Members must not receive more than one FRA senior salary.

Determination 31: A FRA senior salary is paid inclusive of the FRA basic salary and must reflect significant and sustained responsibility.

Determination 32: Members of a principal council in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any FRA to which they have been nominated.

9. Payments to Co-opted Members of Principal Councils, National Park Authorities and Fire & Rescue Authorities⁶

- 9.1 The Panel has determined that a daily or half daily fee is appropriate remuneration for the important role undertaken by co-opted members of authorities with voting rights.
- 9.2 The number of days in any one year for which co-opted members may be paid varies and reflects the specific work discharged by the relevant committee. This context for payment therefore differs from that for elected members of principal councils which provides a monthly payment. Many elected members of principal councils report that they rely on this as part of a core income without which they would be unable to continue in the role.
- 9.3 In dialogue with the Panel, co-opted members acknowledge the importance of fees they receive but do not identify these payments as an income for living upon which they depend. Panel determinations in relation to co-opted member fees occur in this context and any uplifts are therefore not comparable with the changes to salaries of elected members.
- 9.4 The Panel proposes an increase of £12 to £210 daily rate for ordinary co-opted members and for those with additional responsibility.
- 9.5 Recognising the important role that co-opted members discharge, payment must be made for travel and preparation time; committee and other types of meetings as well as other activities, including training, as set out in Determinations 34 to 37.
- 9.6 The determinations are set out below and principal councils, NPAs and FRAs must tell co-opted members the name of the appropriate officer who will provide them with the information required for their claims; and make the appropriate officer aware of the range of payments that should be made.

Determination 33: Principal councils, NPAs and FRAs must pay the following fees to co-opted members who have voting rights (Table 6).

Table 6: Fees for co-opted members (with voting rights)

Chairs of standards, and audit committees	£268 (4 hours and over) £134 (up to 4 hours)
Ordinary members of standards committees who also chair standards committees for community and town councils	£238 daily fee (4 hours and over) £119 (up to 4 hours)
Ordinary members of standards committees; education scrutiny committee; crime and disorder scrutiny committee and audit committee	£210 (4 hours and over) £105 (up to 4 hours)

Community and town councillors sitting on principal council standards committees	£210 (4 hours and over) £105 (up to 4 hours)
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Determination 34: Reasonable time for pre-meeting preparation is to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.

Determination 35: Travelling time to and from the place of the meeting is to be included in the claims for payments made by co-opted members (up to the maximum of the daily rate).

Determination 36: The appropriate officer within the authority must determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.

Determination 37: Fees must be paid for meetings and other activities including other committees and working groups (including task and finish groups), pre-meetings with officers, training and attendance at conferences or any other formal meeting to which co-opted members are requested to attend.

Support for co-opted members

Determination 38: Each authority, through its Democratic Services Committee or other appropriate committee, must ensure that all voting co-opted members are given as much support as is necessary to enable them to fulfil their duties effectively. Such support should be without cost to the individual member.

⁶This section does not apply to co-opted members to community and town councils.

10. Contribution towards costs of care and personal assistance

- 10.1 This section applies to all members of principal councils, National Park Authorities, Fire and Rescue Authorities and to Co-opted members of these authorities. The same provision applies to Community and Town Councils.
- 10.2 The purpose of this section is to enable people who have personal support needs and or caring responsibilities to carry out their duties effectively as a member of an authority. The Panel believes that additional costs of care required to carry out approved duties should not deter any individual from becoming and remaining a member of an authority or limit their ability to carry out the role. The Panel has adopted specific principles related to support for the costs of care which were the subject of a Supplementary Report published in February 2020. These principles are replicated in the [supplementary report](#).
- 10.3 The Panel has reviewed the arrangements for this financial support and proposes the following changes:
- a) As payments are taxable under the current HMRC rules, full reimbursement is not possible so for clarity this will be retitled to “Contribution towards the costs of care and personal assistance”. It will still require receipts to accompany claims.
 - b) Claims can be made in respect of a dependant under 16 years of age, or a minor or adult who normally lives with the member as part of their family and who cannot be left unsupervised.
 - c) Clarification in respect of a member’s own care or support needs: Reimbursement may be claimed where the support and or cost of any additional needs are not available or are not met directly by the authority such as Access to work, Personal Payments, Insurance. These could arise when the needs are recent and or temporary.
- 10.4 Members, including co-opted members are entitled to claim towards the costs of care and personal assistance, for activities that the individual council has designated official business or an approved duty which might include appropriate and reasonable preparation and travelling time. It is a matter for individual authorities to determine specific arrangements to implement this; each authority must ensure that any payments made are appropriately linked to official business or approved duty.
- 10.5 The Panel has reviewed the maximum monthly payment in recognition that this has not changed for several years. Information indicates that monthly costs and claims vary considerably. These can depend on the number of dependants, their ages and other factors. Therefore the monthly cap will be replaced with the following arrangements:
- Formal (registered with Care Inspectorate Wales) care costs to be

reimbursed in full.

- Informal (unregistered) care costs to be reimbursed up to a maximum rate equivalent to the Real Living Wage at the time the costs are incurred.

For clarification, care costs cannot be paid to someone who is a part of a member's household

- 10.6 The Panel continues to recognise the issues relating to the publication of this legitimate expense and has retained the requirements for publication set out in Annex 4. To support current members and to encourage diversity the Panel urges authorities to promote and encourage greater take-up of the contribution towards costs of care and personal assistance.

Table 7

The Panel's principles relating to care and personal assistance

The Minimum Authorities should do		How this could be done
Be clear who it is for	<p>Members with primary caring responsibilities for a child or adult and or personal support needs where these are not covered by statutory or other provision.</p> <p>For personal support. This might also include a short term or recent condition not covered by the Equality Act 2010, access to work, Personal Payments, insurance or other provision.</p>	A Confidential review of the needs of individual members annually and when circumstances change
Raise Awareness	Ensure potential candidates, candidates and current members are aware that financial support is available to them should their current or future circumstances require.	Ensure clear and easily found information is available on website and in election and appointment materials, at Shadowing and at induction and in the members' "handbook". Remind serving members via e-mail and or training. Signpost to IRPW Payments to Councillors leaflets.
Promote a Positive Culture	Ensure all members understand the reason for RoCoC and support and encourage others to claim where needed.	Encouragement within and across all parties of Relevant Authorities to support members to claim.

The Minimum Authorities should do	How this could be done
	Agree not to advertise or make public individual decisions not to claim.
Set out the approved duties for which CCCPA can be claimed	<p>Approved duties are usually a matter of fact. Interpretation of the IRPW Regulations are set out in the Annual Report.</p> <p>“Any other duty approved by the authority, or any duty of class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees.”</p>
Be as enabling as possible about the types of care that can be claimed	<p>Members should not be “out of pocket” subject to the limit set in the Annual Report.</p> <p>Models of care and needs vary. Members may use a combination of several care options.</p> <p>Patterns of care may alter over the civic and academic year.</p> <p>Not all care is based on hourly (or part hourly) rates.</p> <p>Where a whole session must be paid for, this must be reimbursed even where the care need is only for part of a session.</p> <p>Members may need to:</p> <ul style="list-style-type: none"> • book and pay for sessions in advance • commit to a block contract: week, month or term • pay for sessions cancelled at short notice <p>Where care need straddles two sessions both should be reimbursed.</p>

The Minimum Authorities should do		How this could be done
Have a simple and effective claim process	Members should know how to claim. The claim process should be clear, proportionate and auditable.	Check members understand how to claim and that it is easy to do so. Flexibility to accept paperless invoices Online form Same or similar form to travel costs claim
Comply with IRPW Publication rules	The IRPW Framework states: “In respect of the publication of the reimbursement of the costs of care, the Panel has decided that relevant authorities should only publish the total amount reimbursed during the year. It is a matter for each authority to determine its response to any Freedom of Information requests it receives. However, it is not intended that details of individual claims should be disclosed.”	

Determination 39: All relevant authorities must provide for the reimbursement of the contribution towards necessary costs for the care of dependent children and adults (provided by informal or formal carers) and for personal assistance needs as follows:

- **Formal (registered with Care Inspectorate Wales) care costs to be reimbursed in full.**
- **Informal (unregistered) care costs to be reimbursed up to a maximum rate equivalent to the Real Living Wage at the time the costs are incurred.**

Reimbursement must be for the additional costs incurred by members to enable them to carry out official business or approved duties. Each authority must ensure that any payments made are appropriately linked to official business or approved duty. Reimbursement shall only be made on production of receipts from the carer.

11. Sickness Absence for Senior Salary Holders

- 11.1 The Family Absence Regulations (approved by the National Assembly in 2014) are very specific relating to entitlement and only available for elected members of principal councils. Absence for reasons of ill-health is not included.
- 11.2 Instances have been raised with the Panel of senior salary holders on long term sickness and the perceived unfairness in comparison with the arrangements for family absence. In consequence, councils are faced with the dilemma of:
- Operating without the individual member but still paying them the senior salary.
 - Replacing the member who therefore loses the senior salary (but retains the basic salary).
- 11.3 The Panel's Framework provides specific arrangements for long term sickness as set out below:
- a) Long term sickness is defined as certified absences in excess of 4 weeks.
 - b) The maximum length of sickness absence within these proposals is 26 weeks or until the individual's term of office ends, whichever is sooner (but if reappointed any remaining balance of the 26 weeks will be included).
 - c) Within these parameters a senior salary holder on long term sickness can, if the authority decides, continue to receive remuneration for the post held.
 - d) It is a decision of the authority whether to make a substitute appointment, but the substitute will be eligible to be paid the senior salary appropriate to the post.
 - e) If the paid substitution results in the authority exceeding the maximum number of senior salaries payable for that authority, as set out in the Annual Report, an addition will be allowed for the duration of the substitution. (However, this would not apply to Merthyr Tydfil or the Isle of Anglesey councils if it would result in more than 50% of the membership receiving a senior salary. It would also not apply in respect of a council executive member if it would result in the cabinet exceeding 10 posts - the statutory maximum).
 - f) When an authority agrees a paid substitution, the Panel must be informed within 14 days of the decision of the details including the specific post and the estimated length of the substitution. The authorities' Schedule of Remuneration must be amended accordingly.
 - g) It does not apply to elected members of principal councils who are not

senior post holders as they continue to receive basic salary for at least six months irrespective of attendance and any extension beyond this timescale is a matter for the authority.

- 11.4 This arrangement applies to members of principal councils, National Park Authorities and Fire and Rescue Authorities who are senior salary holders, including Welsh Government appointed members, but does not apply to co-opted members.

Note:

The Family Absence Regulations apply to elected members in cases of maternity, new born, adoption and parental absences from official business. They do not apply to Welsh Government appointed members of National Park Authorities.

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12. Reimbursement of Travel and Subsistence Costs when on Official Business

- 12.1 This section applies to members of principal councils, National Park Authorities, Fire and Rescue Authorities and to co-opted members of these authorities. (Similar provision for Community and Town Councils is contained in section 13 as there is a different approach to such members, principally that the provision is permissive.)
- 12.2 Members may claim reimbursement for travel and subsistence (meals and accommodation) costs where these have arisen as a result of undertaking official business or approved duties.
- 12.3 Expenses reimbursed to members of principal councils, by their principal council are exempt from Income Tax and employee NICs. Members of National Park Authorities and Fire and Rescue Authorities may be subject to other arrangements as determined by HMRC.
- 12.4 The Panel is aware that in some instances members with disabilities have been reluctant to claim legitimate travel expenses because of an adverse response following the publication of their travel costs. As an alternative, travel arrangements could be made directly by the authority in such circumstances.
- 12.5 The Panel has determined there will be no change to mileage rates which members are entitled to claim. All authorities may only reimburse travel costs for their members undertaking official business within and or outside the authority's boundaries at the current HM Revenue and Customs (HMRC) rates which are:

Reimbursement of mileage costs

45p per mile	Up to 10,000 miles in a year by car
25p per mile	Over 10,000 miles in a year by car
5p per mile	Per passenger carried on authority business
24p per mile	Motor cycles
20p per mile	Bicycles

- 12.6 Where a member who is on official business or an approved duty is driven by a third party (not a member or officer of that authority), the member can claim mileage at the prescribed rates plus any parking or toll fees provided the authority is satisfied that the member has incurred these costs.

Reimbursement of other travel costs

- 12.7 All other claims for travel, including travel by taxi if this is the only, or most

appropriate, method of transport, must only be reimbursed on production of receipts showing the actual cost and will be subject to any requirement or further limitation that an authority may determine. Members should always be mindful of choosing the most cost-effective method of travel.

Reimbursement of subsistence costs

£28 per day	Day allowance for meals, including breakfast, where not provided in the overnight charge
£200 per night	London
£95 per night	Elsewhere
£30 per night	Staying with friends and or family

- 12.8 These rates are in line with Welsh Government rates. Recommended practice is that overnight accommodation should usually be reserved and paid for on behalf of members by the relevant authority, in which case an authority may set its own reasonable limits and the limits which apply when an individual member claims in arrears for overnight accommodation costs do not then apply.
- 12.9 All authorities must continue to reimburse subsistence expenses for their members up to the maximum rates set out above on the basis of receipted claims except for occasions when members stay with friends and/or family.
- 12.10 There may be instances where an authority has determined that travel costs within its boundaries are payable and require a journey to be repeated on consecutive days. Where it is reasonable and cost effective to reimburse overnight accommodation costs, instead of repeated daily mileage costs, then it is permissible to do so.
- 12.11 It is not necessary to allocate the maximum daily rate (£28 per day) between different meals as the maximum daily rate reimbursable covers a 24-hour period and can be claimed for any meal if relevant, provided such a claim is accompanied by receipts.

Car Parking for Members

Several councils have specific arrangements for their members in respect of car parking. The Panel considers that it is a matter for individual councils to determine arrangements including payments to and from members providing that it is a decision made formally by the council.

Annex 2: Independent Remuneration Panel for Wales (IRPW) Regulations:

- a) For the remuneration of members and co-opted members of relevant authorities**
- b) For functions relating to the salaries of Heads of Paid Service of Principal Councils and Fire and Rescue Authorities**
- c) Chief Officers of Principal Councils**

Introduction

Part 8 (sections 141 to 160) and schedules 2 and 3 of the Local Government (Wales) Measure 2011 (*the Measure*) set out the arrangements for the payments and pensions for members of relevant authorities and the functions and responsibilities of the Independent Remuneration Panel for Wales (the Panel).

Sections 62 to 67 of the Local Government (Democracy) (Wales) Act 2013 amends sections 142, 143, 144, 147, 148 and 151 of the Measure and confers additional powers on the Panel.

The powers contained in part 8 and schedules 2 and 3 of the Measure (as amended) have replaced the following Statutory Instruments:

- The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 (No. 1895 (W.196)).
- The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (No. 2555 (W.227)).
- The Local Authorities (Allowances for Members) (Wales) Regulations 2007 (No.1086 (W.115)).

The Measure also has replaced the sections of the Local Government Act 1972, the Local Government and Housing Act 1989 and the Local Government Act 2000 relating to payments to councillors in Wales.

Payments for members of community and town councils are set out in Part 5 of these Regulations. The Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003 (No. 895(W.115)) were revoked from 1 April 2013.

Part 1

General

1. a. The short title of these Regulations is: "IRPW Regulations".

- b. These IRPW Regulations came into force on 1 April 2021 and replace those in force from 1 April 2012. The implementation date for each of the relevant authorities is set out in the Annual Report or Supplementary Report of the Panel.
- c. Authorities are required to produce a schedule of payments to members and co-opted members no later than the 31 July each year, for submission to the Panel and publication (see paragraph 46).

Interpretation

2. In the IRPW Regulations:

- “The 1972 Act” means the Local Government Act 1972.
- “The 2000 Act” means the Local Government Act 2000.
- “The 2013 Act” means the Local Government (Democracy) (Wales) Act 2013.
- “Payment” means the actual or maximum amount which may be paid to members and co-opted members of a relevant authority for expenses necessarily incurred when carrying out the official business of the relevant authority.
- “Annual Report” means a report produced by the Panel in accordance with section 145 of the Measure.
- “Approved duty” in relation to community and town councils has the meaning as set out in Part 5 of these Regulations.
- “Authority” means a relevant authority in Wales as defined in Section 144(2) of the Measure and includes a principal council (county or county borough council), a national park authority and a Welsh fire and rescue authority, a community or town council.
- “Basic Salary” has the same meaning as set out in paragraph 6 of these Regulations, and may be qualified as “LA Basic Salary” to refer to the basic salary of a member of a principal council; “NPA Basic Salary” to refer to the basic salary of a member of a national park authority; and “FRA Basic Salary” to refer to the basic salary of a member of a Welsh fire and rescue authority.
- “Chief Officer” of a principal council has the meaning as defined in the Localism Act 2011.
- “Civic Head” is the person elected by the council to carry out the functions of the chair of that council and is designated as mayor or chair.
- “Committee” includes a sub-committee.
- “Community or town council” means in relation to Part 8 of the Measure, a community council as defined in section 33 of the Local Government Act 1972 or a town council in accord with section 245B of the same Act.

- “Consultation draft” means the draft of an Annual or Supplementary report under Section 146 (7) or 147(8) of the Measure. The Panel must take account of these representations.
- “Constituent authority” – for national park authorities this is a principal council falling within the area of a national park authority; for Welsh fire and rescue authorities it is a principal council falling within the area of a fire and rescue authority.
- “Controlling group” means a political group in a principal council where any of its members form part of the executive.
- “Co-opted Member” has the meaning contained in section 144 (5) of the Measure, that is those with the right to vote on matters within the remit of the committee on which they serve.
- “Co-opted Member payment” has the same meaning as set out in paragraph 19 of these Regulations.
- “Costs of Care” has the same meaning as set out in paragraph 21 of these Regulations.
- “Democratic Services Committee” means the principal council committee established under section 11 of the Measure.
- “Deputy Civic Head” is a person elected by the council to deputise for the mayor or chair of that council.
- “Executive” means the executive of an authority in a form as specified in sections 11(2) to (5) of the 2000 Act, as amended by section 34 of the Measure.
- “Executive arrangements” has the meaning given by section 10(1) of the 2000 Act.
- “Family absence” as defined in Section 142 (2) (b) of the Measure has the meaning given to it by Part 2 of the Measure, and the related Regulations
- “Financial Loss Allowance in relation to community or town councils has the meaning as set out in Part 5 of the Regulations.
- “Fire and rescue authority” means an authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- “Head of paid service” means as designated under section 4(1) of the Local Government and Housing Act 1989.
- Joint Overview and Scrutiny Committee means a committee or subcommittee set up by two or more principal councils under the Local Authority (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013.
- “Largest opposition group” means a political group other than a controlling group which has a greater number of members than any other political group in the authority.

- “Member” means a person who serves on an authority.
 - For a principal council or a community or town council a “Member” may be:
 - An “Elected Member” which means a person who has been elected to serve as a councillor for that authority. It is possible for a person to hold an elected office if, further to the completion of an election, no candidate has presented and a person holds that office subject to proper process.
 - A ‘Co-opted Member’ which means a person who has been placed into membership of a council committee or to discharge a function subject to proper process.
 - For a national park authority, a “Member” means a person appointed by a constituent authority and a person appointed by Welsh Ministers.
 - For Welsh fire and rescue authorities a “Member” means a person appointed by a constituent authority.

- “National Park Authority” means a national park authority established under section 63 of the Environment Act 1995.

- “Official business” has the meaning contained in Section 142 (10) of the Measure in relation to the reimbursement of care, travel and subsistence costs necessarily incurred by members and co-opted members of a relevant authority (excluding community and town councils) when:
 - a. Attending a meeting of the authority or any committee of the authority or any other body to which the authority makes appointments or nominations or of any committee of such a body.
 - b. Attending a meeting of any association of authorities of which the authority is a member.
 - c. Attending a meeting the holding of which is authorised by the authority or by a committee of the authority or by a joint committee of the authority and one or more other authorities.
 - d. Attending any training or development event approved by the authority or its executive.
 - e. A duty undertaken for the purpose of or in connection with the discharge of the functions of an executive within the meaning of Part 2 of the 2000 Act, as amended.
 - f. A duty undertaken in pursuance of a standing order which requires a member or members to be present when tender documents are opened.
 - g. A duty undertaken in connection with the discharge of any function of the authority to inspect or authorise the inspection of premises.
 - h. A duty undertaken by members of principal councils in connection with constituency or ward responsibilities which arise from the discharge of principal council functions.

- i. Any other duty approved by the authority, or any duty of class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees.
- “Other political group” means a political group other than a controlling group or the largest opposition group (if any) which comprises not less than ten per cent of the members of that authority.
 - “Overview and Scrutiny Committee” means a committee of the authority which has the powers set out in sections 21(2) and (3) of the 2000 Act, as amended by Part 6 of the Measure.
 - “Panel” means the Independent Remuneration Panel for Wales as set out in section 141(1) and schedule 2 of the Measure.
 - “Pay policy statement” means a statement produced by a relevant authority under section 38 of the Localism Act 2011.
 - ‘Political group’ may be formed from members of a recognised political party or be a group of independent members unaffiliated to any recognised political party. “Presiding Member” means a member of a principal council who has been designated by that council to carry out functions in relation to the chairing of its meetings and proceedings.
 - “Principal Council” is as defined by the 1972 Act and means a county or county borough council.
 - “Proper officer” has the same meaning as in section 270(3) of the 1972 Act. In community and town councils, the ‘Proper Officer’ may be the clerk or other official appointed for that purpose. “Public body” means a body as defined in section 67(b) of the 2013 Act.
 - “Qualifying provision” means a provision that makes a variation to a previous decision of the Panel. (Section 65 (c) of the 2013 Act).
 - “Qualifying relevant authority” is an authority within the meaning of section 63 of the 2013 Act, required to produce a pay policy statement.
 - “Relevant authority” is set out in Section 144(2) of the Measure (as amended) and in section 64 of the 2013 Act and, for the purposes of these Regulations, includes a principal council, a community or town council, a national park authority and a Welsh fire and rescue authority.
 - “Relevant matters” are as defined in Section 142(2) of the Measure.
 - “Schedule” means a list setting out the authority’s decisions in respect of payments to be made during the year (as relating to that authority) to all members and co-opted members of that authority.
 - “Senior Salary” has the same meaning as set out in paragraph 11 of these Regulations and may be qualified as “Principal council Senior Salary” to refer to the senior salary of a member of a principal council; “National Park Senior Salary” to refer to the senior salary of a member of a national park authority; or “Fire and Rescue authority Senior Salary” to refer to the senior salary of a member of a Fire and Rescue authority.
 - “Sickness absence” means the arrangements as set out in the Annual Report.

- “Supplementary report” has the meaning contained in section 146(4 to 8) of the Measure.
- “Travelling and subsistence payment” has the same meaning as set out in paragraph 25 of these Regulations.
- “Year” has the following meanings:
 - “financial year” – the period of twelve months ending 31 March;
 - “calendar year” – the period of twelve months ending 31 December;
 - “municipal year” – the year commencing on the date of the annual meeting of the authority and ending the day before the annual meeting of the following year; for national park authorities and Welsh fire and rescue authorities it is the period of up to twelve months following the annual meeting of the authority.

Part 2: Schedule of member or co-opted member payments

Commencement of term of office

3. The term of office of:
 - An elected member of a principal council or community or town council begins 4 days following the election subject to making the declaration of acceptance of that office under section 83(1) of the 1972 Act.
 - A councillor member of a national park authority begins on the date on which that member is appointed as such by a constituent authority and the term of office of a Welsh Government appointed member begins on the date of that appointment. The term of office of the chair and deputy chair of the national park authority begins on their acceptance of that office further to being either elected or appointed as a chair or deputy chair of a national park authority.
 - A councillor member of a Welsh fire and rescue authority begins on the date on which that member is appointed as such by a constituent authority and the term of office of the chair and deputy chair of the fire and rescue authority begins on the date of election by that authority to that office.
 - A co-opted member of a relevant authority begins on the date of appointment by the relevant authority.

Schedule of payments to members (the Schedule) (does not apply to community or town councils – see Part 5)

4. An authority must produce annually, a schedule of payments it intends to make to its members and co-opted members. The amount of those payments must accord with the Panel’s determinations made for that year in its Annual or Supplementary Reports. The Schedule must be produced no later than four weeks following the annual meeting of the authority.

Amendment to the Schedule

5. An authority may amend the Schedule at any time during the year (as relating to the authority) provided that such amendments accord with the Panel's determinations for that year.

Basic salary

6. An authority must provide for the payment of a basic salary, as determined by the Panel in its Annual or Supplementary Reports, to each of its members. The amount of the salary must be the same for each member. For principal councils only, this salary remains payable during a period of family absence.
7. A member may not receive more than one basic salary from a relevant authority, but a member of one relevant authority may receive a further basic salary by being appointed as a member of another relevant authority (except in the case as indicated in paragraph 16).
8. The amount of the basic salary will be set in accordance with Section 142(3) of the Measure and will be one of the following:
 - The amount the authority must pay to a member of the authority.
 - The maximum amount that the authority may pay to a member of the authority.
9. Where the term of office of a member begins or ends other than at the beginning or end of the year (as relating to the authority), the entitlement of that member is to such proportion of the basic salary as the number of days during which the member's term of office subsists during that year bears to the number of days in that year.
10. Where a member is suspended or partially suspended from being a member of an authority (Part 3 of the 2000 Act refers) the part of the basic salary payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority. Payment must also be withheld if directed by the Welsh Ministers (Section 155(1) of the Measure).

Senior salary

11. Subject to paragraphs 12 to 18 an authority can make payments of a senior salary to members that it has given specific responsibilities. Such payments must accord with the Panel's determination for the year (as relating to the authority) that the payments are made and must be set out in the Schedule of that authority. For principal councils only, a senior salary will remain payable during the family absence of the office holder.
12. The Panel will prescribe in its Annual or Supplementary Reports the following:
 - The categories of members eligible for the payment of a senior salary

which may not be the same for all authorities or categories of authorities.

- The discretion available to authorities in relation to the payment of senior salaries which may not be the same for all authorities or categories of authorities.
13. The amount of the senior salaries payable will be in accordance with section 142(3) of the Measure and specify:
 - The amount that a relevant authority must pay to a member of the authority.
 - The maximum amount that a relevant authority may pay to a member of the authority.
 14. The Senior Salary will comprise an amalgam of the basic salary and an additional amount for the relevant specific responsibility determined by the Panel in its Annual or Supplementary Reports. This may not be the same for all authorities or categories of authorities.
 15. The Panel in its Annual or Supplementary Reports will determine either the maximum proportion of its membership or the total number of members that an authority can pay as senior salaries. The percentage may not exceed fifty percent without the express approval of Welsh Ministers (Section 142(5) of the Measure). For principal councils only, the maximum proportion or number may be exceeded to include payment of a senior salary to an additional member who is appointed to provide temporary cover for the family absence of a senior salary office holder (subject to the 50% limit).
 - 15(a). For, Fire and Rescue Authorities and National Park Authorities the maximum proportion or number may be exceeded to include the payment of a senior salary to an additional member who is appointed to provide temporary cover for the sickness absence of a senior salary holder as determined in the Annual Report or a Supplementary Report.
 - 15(b). Payments to chairs of Joint Overview and Scrutiny Committees or Sub Committees are additional to the maximum proportion of its membership that an authority can pay as senior salaries subject to the overall maximum of fifty percent as contained in Section 142(5) of the Measure. The Panel will determine the amounts of such payments in an Annual or Supplementary Report.
 16. An authority must not pay more than one senior salary to any member. A principal council member in receipt of a senior salary as leader or executive member of an authority (determined as full-time by the Panel) may not receive a second salary as a member appointed to serve on a national park authority or a Welsh fire and rescue authority.
 - 16(a). Paragraph 16 does not apply to payments made to a chair of a Joint Overview and Scrutiny Committee or Sub Committee who is in receipt of a senior salary for a role that is not classified as full time equivalent. It continues to apply to leaders or members of the executive.

17. Where a member does not have, throughout the year specific responsibilities that allow entitlement to a senior salary, that member's payment is to be such proportion of the salary as the number of days during which that member has such special responsibility bears to the number of days in that year.
18. Where a member is suspended or partially suspended from being a member of the authority (Part 3 of the 2000 Act refers) the authority must not make payments of the member's senior salary for the duration of the suspension (Section 155(1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the member may retain the basic salary. Payment must also be withheld if directed by the Welsh Ministers.

Co-opted member payment

19. A relevant authority must provide for payments to a co-opted member as determined by the Panel in its Annual or Supplementary Reports. In relation to this regulation 'co-opted member' means a member as determined in Section 144(5) of the Measure and set out in paragraph 2 of these Regulations.
20. Where a co-opted member is suspended or partially suspended from an authority (Part 3 of the 2000 Act refers) the authority must not make payment of a co-opted member fee for the duration of the suspension (Section 155(1) of the Measure).

Payments

Costs of Care

21. Authorities must provide for the payment to members and co-opted members of an authority the reimbursement in respect of such expenses of arranging the care of children or dependants or for the individual member as are necessarily incurred in carrying out official business as a member or co-opted member of that authority. Payments under this paragraph must not be made:
 - In respect of any child over the age of fifteen years or dependant unless the member/co-opted member satisfies the authority that the child or dependant required supervision which has caused the member to incur expenses that were necessary in respect of the care of that child or dependant in the carrying out of the duties of a member or co-opted member.
 - To more than one member or co-opted member of the authority in relation to the care of the same child or dependant for the same episode of care.
 - Of more than one reimbursement for care to a member or co-opted member of the authority who is unable to demonstrate to the satisfaction of the authority that the member/co-opted member has to make separate arrangements for the care of different children or

dependants.

22. The maximum amount of the cost of care payable by an authority is to be determined by the Panel in its Annual or Supplementary Reports.
23. Where a member/co-opted member is suspended or partially suspended from being a member or co-opted member of the authority (Part 3 of the 2000 Act refers) the part of the reimbursement of the cost of care payable to that member or co-opted member in receipt of the responsibilities or duties from which that member or co-opted member is suspended or partially suspended must be withheld by the authority. Payment must also be withheld if directed by the Welsh Ministers for reasons other than suspension (Section 155(1) of the Measure).
24. An authority's Schedule must stipulate the amount of the contribution towards costs of care and personal assistance payable and its arrangements for making claims, taking full account of the Panel's determinations in this respect.

Travel and subsistence payments

25. Subject to paragraphs 26 and 27 below a member or co-opted member is entitled to receive payments from the authority by way of travelling and subsistence payments at rates determined by the Panel in its Annual or Supplementary Reports. Such payments are in respect of expenditure incurred by a member or co-opted member in the performance of the official business within or outside the boundary of the authority.

(Paragraphs 26 & 27 apply only to principal councils)

26. Payment of a subsistence payment to a principal council member for the performance of official business within the boundaries of a county or county borough where they are a member should only be made when the authority is satisfied that it can be justified on economic grounds. This does not apply in respect of co-opted members of a council who live outside that authority.
27. A principal council may make provision, subject to any limitations it thinks fit, for members to claim mileage expenses for official business in connection with constituency or ward responsibilities where they arise out of the discharge of the functions of the county or county borough.
28. Where a member or co-opted member is suspended or partially suspended from being a member or co-opted member of the authority (Part 3 of the 2000 Act refers), travelling and subsistence payments payable to that member or co-opted member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority. Payment must also be withheld if directed by the Welsh Ministers for reasons other than suspension (Section 155(1) of the Measure).

Part 3: Further provisions

Pensions

29. Under Section 143 of the Measure, the Panel may make determinations in respect of pension arrangements for principal council members in its Annual or Supplementary Reports. Such determinations may:
- Define which members for whom the principal council will be required to pay a pension.
 - Describe the relevant matters in respect of which a local authority will be required to pay a pension.
 - Make different decisions for different principal councils.

Payments to support the function of an authority member

30. An authority must provide for the requirements of a member to undertake their role and responsibilities more effectively. The way in which this support should be provided is determined by the Panel in its Annual or Supplementary Reports.

Arrangements in relation to family absence

31. Part 2 of the Measure sets out the rights of principal council members in relation to family absence. The Panel will set out its determinations and the administrative arrangements in relation to these payments in its Annual or Supplementary Reports.

Sickness Absence

32. Arrangements for long-term sickness absence of senior salary holders of principal councils, Fire and Rescue Authorities and National Park Authorities will be as set out in the Panel's Annual Report or Supplementary Report.

Part 4: Payments

Repayment of payments

33. An authority can require that such part of a payment be repaid where payment has already been made in respect of any period during which the member or co-opted member concerned:
- a. is suspended or partially suspended from that member's or co-opted member's duties or responsibilities in accordance with Part 3 of the 2000 Act or Regulations made under that Act.
 - b. ceases to be a member or co-opted member of the authority.

- c. or in any way is not entitled to receive a salary, allowance or fee in respect of that period.

Forgoing payments

- 34. Under Section 154 of the Measure, any member or co-opted member may by notice in writing to the proper officer of the authority elect to forgo any part of their entitlement to a payment under the determination of the Panel for that particular year (as relating to the authority).

Part 5: Specific provisions relating to community and town councils (“the council”)

Interpretation

- 35. For the purposes of this Part the term member means both an elected member and a co-opted member.

Payments

- 36. Payments
 - a) The Annual Report or a Supplementary Report determines the arrangements and amount of an annual payment to members in respect of costs incurred in carrying out the role of a member and if appropriate take account of the variation in size or financial circumstances of different councils.
 - b) The council may make payments to members in respect of costs of travel for attending approved duties within or outside the area of the council. The amounts claimable will be set out in the Annual or Supplementary Report of the Panel.
 - c) The council may reimburse subsistence costs to its members when attending approved duties within or outside the area of the council. The arrangements for reimbursement will be set out in the Annual or Supplementary Report of the Panel.
 - d) The council may pay compensation for Financial Loss to its members where such loss has occurred for attending approved duties within or outside the area of the council. The payments will be set out in the Annual or Supplementary Report of the Panel.
 - e) The council may make a payment to the chair or mayor and deputy chair or mayor of the council for the purposes of undertaking the role of that office. The payment will be set out in the Annual or Supplementary Report of the Panel.
 - f) The Annual Report or a Supplementary Report determines the arrangements for payments to members of a council who undertake senior roles and if appropriate take account of the variation in size or financial circumstances of different councils.

- g) The council must reimburse the costs of care to a member if claimed, as determined in the Annual Report of the Panel.
37. A member may elect to forgo any part of an entitlement to payment under these Regulations by giving notice in writing to the proper officer of the council.
38. A member making a claim for compensation for Financial Loss must sign a statement that the member has not made and will not make any other claim in respect of the matter to which the claim relates.
39. “Approved Duty” under this Part means
- i. Attendance at a meeting of the council or of any committee or sub-committee of the council or of any other body to which the council makes appointments or nominations or of any committee or sub-committee of such a body.
 - ii. Attendance at any other meeting the holding of which is authorised by the council or a committee or sub-committee of the council, or a joint committee of the council and one or more councils, or a sub-committee of such a joint committee provided that at least two members of the council have been invited and where the council is divided into political groupings at least two such groups have been invited.
 - iii. Attendance at a meeting of any association of councils of which the council is a member.
 - iv. Attendance at any training or development event approved by the council.
 - v. Any other duty approved by the council or duty of a class approved by the council for the discharge of its functions or any of its committees or sub-committees.

Part 6: Miscellaneous

Arrangements for payments

40. The Schedule of an authority must set out the arrangements for payment to all members and co-opted members of that authority. Such payments may be made at such times and at such intervals as determined by the authority.

Claims

41. An authority must specify a time limit from the date on which an entitlement to travelling or subsistence payments arise during which a claim for must be made by the person to whom they are payable. However, this does not prevent an authority from making a payment where the allowance is not claimed within the period specified.

42. Any claim for payment of travelling, subsistence or care costs in accordance with these Regulations (excluding claims for travel by private vehicle or bicycle) shall be accompanied by appropriate receipts proving actual cost.

Avoidance of duplication

43. A claim for a payment of travelling, subsistence or care costs must include, or be accompanied by, a statement signed by the member or co-opted member that the member or co-opted member has not made and will not make any other claim in respect of the matter to which the claim relates.

Records of payments

44. An authority must keep a record of the payments made in accordance with these Regulations. as set out in an Annual or Supplementary Report.

Publicity requirements

(The required content of publicity requirements is contained in an annex to the Annual Report)

45. An authority must, as soon as practicable after determining its Schedule of Remuneration for the year under these Regulations and any Report of the Panel and not later than 31 July of the year to which the Schedule refers, arrange for the Schedule's publication within the authority's area and to notify the Panel. **(This section does not apply to community and town councils).**
46. As soon as practicable and no later than 30 September following the end of the financial year **all relevant authorities** must publicise within the authority's area and notify the Panel:
- the total sum paid by it to each member or co-opted member in respect of basic salary, senior salary, co-opted member fee, travel and subsistence payments.
 - the total expenditure on contribution towards costs of care and personal assistance.
47. In the same timescale and in the same manner, an authority must publicise any further remuneration received by a member nominated or appointed to another relevant authority. **(This section applies only to principal councils).**

Publicising the reports of the Panel

48. Under Section 146(7) (a) and (b) of the Measure, the Panel will send a consultation draft of its Annual Report or Supplementary Report to all relevant authorities for circulation to authority members and co-opted members, so that representations can be made by members and co-opted members to the Panel, normally in a period of eight weeks.
49. The Panel will determine in its Annual or Supplementary Reports the arrangements publicising its Reports in accordance with Section 151 and 152 of the Measure.

Monitoring compliance with the Panel's determinations

50. Section 153 of the Measure determines that relevant authorities must comply with the requirements imposed by the Panel in its Annual Reports. It also empowers the Panel to monitor the payments made by relevant authorities and for it to require the provision of information that it specifies. The requirements under this section will be set out in the Annual Report of the Panel.

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**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 9
1 FEBRUARY 2021

**PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT &
ACCOUNTS 2019/20**

SUMMARY

This report presents Members with extracts from the Annual Report and Accounts for the Public Services Ombudsman for Wales for the year ending 31 March 2020, in respect of Members' Code of Conduct matters.

RECOMMENDATION

It is recommended that Members note the content of the report.

1. BACKGROUND

- 1.1 The Annual Report is a combined report addressing matters relating to the dual functions of the Public Services Ombudsman for Wales (the Ombudsman). The link to the full annual report can be found at <https://www.ombudsman.wales/wp-content/uploads/2020/07/PSOW-Annual-Report-and-Accounts-2019-20.pdf>
Relevant extracts are attached at Appendix 1. The Executive Summary of the report can be found at Appendix 2.

2. ISSUE

- 2.1 There are two elements to the role of the Ombudsman, which are to consider complaints about public service providers in Wales and to consider complaints in relation to Members who have breached their authority's Members' Code of Conduct.
- 2.2 With particular reference to Members' Code of Conduct complaints, the Ombudsman may consider complaints about the behaviour of:
- County and County Borough Councils
 - Community Councils
 - Fire & Rescue Authorities
 - National Park Authorities
 - Police & Crime Panels
- 2.3 The Annual Report details the performance of the Ombudsman office over the year, provides an update on developments that may have occurred and also delivers any key messages arising from their work carried out during the year.

- 2.4 The Annual Report sets out the workloads that have been dealt with by the Ombudsman office during 2019/20 and breaks this workload down into the number of enquiries received and the number of complaints received. It also breaks down the complaints by those received about public services (public body complaints) and those received in relation to Code of Conduct complaints, which this Committee is concerned with.
- 2.5 The number of Code of Conduct complaints has dropped sharply this year, seeing an 18% reduction on 2018/19 figures, primarily due to a reduction in community council complaints. The total number of Code of Conduct complaints for the year 2019/20 was 231. Of those complaints, the highest number once again related to the promotion of equality and respect (49% compared to 51% in 2018/19); 17% related to the failure to disclose or register interests (17% last year also); 11% related to accountability and openness (7% in 2018/19); 10% related to integrity (down from 11% last year); and 7% related year duty to uphold the law (9% last year). Of those complaints, 33 were investigated (down 23% on last year) and 1 case was referred to the Adjudication Panel for Wales & Standards Committees.
- 2.6 Further statistical data is contained within the Annual Report. However, in general terms, the nature of the complaints were weighted towards those around equality and respect, followed by failure to register or declare interests, and then issues relating to openness, accountability and integrity, which largely mirrors the position of last year.
- 2.7 The most common outcome of the complaints were that they were closed after initial consideration. Of the complaints in 2019/20, the majority (202) were closed under this outcome. These include decisions where there is no prima facie evidence of a breach of the Code and it is not in the public interest to investigate.
- 2.8 33 complaints were closed after full investigation in 2019/20, up from 28 in 2018/19. The Annual Report states that this is because the Ombudsman continues to apply a public interest test when deciding whether to investigate Code of Conduct complaints and that the Ombudsman will only investigate the more serious complaints where an investigation is required in the public interest. A copy of the Ombudsman Factsheet on the Public interest Test is attached at Appendix 3.
- 2.9 It is pleasing to note within the Annual Report that no complaints were received in 2019/20 in relation to public service provision by South Wales Fire & Rescue Authority and, more importantly for this Committee, no Code of Conduct complaints were received by the Ombudsman again this year, following exactly the position in previous years.

3. RECOMMENDATION

3.1 It is recommended that Members note the content of the report.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	Public Services Ombudsman for Wales – Annual Report & Accounts 2019/20

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Ombudsman Ombwdsmon

PUBLIC SERVICES OMBUDSMAN FOR WALES
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Delivering Justice

The Public Services Ombudsman for Wales

ANNUAL REPORT AND ACCOUNTS

2019/20



COVID-19

This Report was produced in April and May 2020, against the backdrop of the Covid-19 outbreak. Most of the data in this Report relates to the period before the rapid escalation in Covid-19 spread and before restrictions on economic and social activity had been introduced. However, Covid-19 has affected our activity towards the end of the year and this is acknowledged, where appropriate, in the Report.

The Annual Report was produced while staff were working at home. Whilst staff had access to our systems and to our data, working remotely has been challenging and this may be reflected in the final Report.

THE WELSH PARLIAMENT

On 6 May 2020 the National Assembly for Wales became ‘the Welsh Parliament’ or ‘Senedd Cymru’. This report refers to the period prior to this change, therefore for correctness we still use the name ‘National Assembly for Wales’ in the relevant sections.



Annual Report and Accounts 2019/2020

of the Public Services Ombudsman for Wales
for the year ended 31 March 2020

Laid before the Welsh Parliament under paragraphs 15, 17 and 18 of Schedule 1 of the Public Services Ombudsman (Wales) Act 2019.

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Key messages



We deliver for those who have suffered injustice.



We innovate and drive improvement across the public sector.



We embrace learning and welcome feedback.



We strive to ensure and promote equality and diversity.



We care for and invest in our staff.



We are accountable and transparent about our performance and use of resources.

Foreword



This document was prepared during the Covid-19 global pandemic. Never have Welsh public services, particularly health and social care, experienced such pressures or levels of appreciation. It is pleasing, in that context, that the level of complaints, received by my office in 2019/20, about public bodies was similar to that in the previous year (an increase of only 1.6%). The proportion of our interventions – cases where we find maladministration or service failure – was also lower (20%, compared to 24% last year).

Our most serious cases, on which we publish public interest reports, totalled only 4, compared to 14 the previous year - a reduction of 71%. These related to Flintshire Council, Swansea Bay University Health Board, the Student Loan Company and a joint report involving Betsi Cadwaladr University Health Board, Gwynedd County Council and Cartrefi Cymru. We saw this year a very welcome drop in complaints about breaches of the Code of Conduct (-18%). We also referred fewer investigations of likely breaches of the Code of Conduct to the Adjudication Panel for Wales or Standards Committees, though there were several high profile cases which demonstrated why the ethical standards regime is required to maintain high standards of conduct in public office in Wales.

This Annual Report covers the first year of the implementation of our new Corporate Plan, 'Delivering Justice', and I am delighted to report excellent progress. In one of the key developments during the year, in 2019 the National Assembly for Wales passed our new Act (the 'PSOW Act 2019'), which received Royal Assent in May. We created a new Improvement team with talent from inside and outside the organisation to lead the new work streams on own initiative investigations and Complaints Standards, as well as enhancing policy and communication resources and increasing our emphasis on internal and external complaints handling and service quality. The team wasted no time in getting key stakeholders up to speed, explaining the changes to the bodies in our jurisdiction, public service leaders from across Wales, senior civil servants and key third sector bodies. In October, we laid the criteria for exercising the new powers of Complaints Standards and own initiative investigations before the National Assembly.

Both powers are now operational and in March 2020 we commenced consultation on the proposal for our first own initiative investigation. The Complaints Standards team has begun the ground-breaking work of collecting and analysing data about complaint handling in the public sector.

This work is still at an early stage, but it already begins to indicate that my caseload represents the tip of the iceberg in terms of the volume of complaints handled by local authorities alone.

In addition to launching the new powers, we continued our other efforts to promote the improvement of public services in Wales. I met key bodies in jurisdiction, including the leaders of Betsi Cadwaladr, Hywel Dda, Swansea Bay and Aneurin Bevan University Health Boards. I also met local government chief executives to discuss the new PSOW Act. We published our fourth thematic report 'Justice Mislaid' and our first ever Equality and Human Rights casebook. We also continued to inform the public policy process where appropriate.

As we do every year, we welcomed scrutiny by the Assembly's Finance Committee and the Equality, Local Government and Communities Committee.

Although I stood down as Chair of the Ombudsman Association in May, we sustained excellent relationships with the ombudsman community in the UK, Europe and across the world. We celebrated the new Act with a seminar in Aberystwyth University addressed by representatives of leading ombudsman schemes. The office also participated fully in the development of the 'Venice Principles', a new global standard of excellence for ombudsman schemes approved by the Council of Europe.

We have continued to liaise with stakeholders in Wales. Amongst many other engagements, I was pleased to attend the National Eisteddfod in Llanrwst and to meet the new Welsh Language Commissioner, Aled Roberts. In March, I was delighted to meet Sir Wyn Williams, President of Welsh Tribunals, following the launch of the report of the Thomas Commission on the future of justice in Wales.

None of this work would have happened without my dedicated staff. I was delighted with the results of our annual staff survey which found that 99% of respondents felt proud to work for PSOW. I was also pleased with the results of an external assessment by Chwarae Teg which demonstrated an excellent working culture. My thanks to my staff for the excellent work that they have done in delivering justice in Wales.

Nick Bennett

Public Services Ombudsman for Wales

About us

We have three main roles:

handling complaints about public service providers; considering complaints about breaches of the Code of Conduct by elected members; and driving systemic improvement of public services. We are independent of all government bodies and the service we provide is free of charge.

Complaints about public service providers

Our first role is to consider complaints about bodies providing public services where responsibility for their provision has been devolved to Wales. These bodies include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations)
- the Welsh Government, together with its sponsored bodies

We are also able to consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

We consider complaints about maladministration, service failure, or failure to provide a service. This means that we look to see whether people have been treated unfairly or inconsiderately or have received a bad service through some fault on the part of the service provider. If a complaint is upheld, we can recommend redress, or changes in process to ensure that mistakes are not repeated.

Code of Conduct complaints

Our second role is to consider complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life. These local authorities include:

- county and county borough councils
- community councils
- fire authorities
- national park authorities

We are also a “prescribed person” under the Public Interest Disclosure Act for raising whistleblowing concerns about breaches of the Code of Conduct by members of local authorities. Further explanation of our duties in this respect can be found on page 34 of the Report.

Systemic improvement of public services

Our third role is to drive broader improvement of public services. Whilst we have always tried to ensure that lessons from complaints are learned and that public bodies adopt good practice in complaint handling, our office was equipped with new powers to drive systemic improvement under the Public Services Ombudsman (Wales) Act 2019.

Under the Act, we are now empowered to undertake investigations on our own initiative. This means that, where we believe that there is maladministration resulting in personal injustice, we can start an investigation even if we have not received a complaint. More information about our work on the proposed first own initiative investigation can be found on page 55 of this Report.

We are also now empowered to set complaints standards for public bodies in Wales. This means that we can publish a statement of principles concerning complaints handling procedures for bodies in jurisdiction, as well as setting model complaints handling procedures for these bodies. We can also monitor the performance of public bodies in complaint handling, including by reviewing their complaint handling data. Page 52 of this Report details how we have taken forward this role to date.

The first UK ombudsman office equipped with full and operational powers to drive systemic improvement

Snapshot of the Year

2019/20

April

We delivered a TPAS Cymru seminar on effective complaints handling in social housing sector.



May

Public Services Ombudsman (Wales) Bill was given Royal Assent.



June

We hosted International Ombudsman Seminar at Aberystwyth University.



July

We met the Welsh Language Commissioner to discuss Welsh Language Standards.



August

We participated in a Youth Rights Panel at the National Eisteddfod in Llanrwst.



September

We gave evidence to the Assembly's Health Committee on the Health and Social Care (Quality and Engagement) (Wales) Bill.



Snapshot of the Year

2019/20

October

Sitemore 'State of the Nation' report named website ombudsman.wales in its top 10.



November

We published our first ever human rights-focused casebook.



December

We attended the International Ombudsman Institute seminar on the Venice Principles.



January

Our new powers of Complaints Standards and investigations on own initiative became operational.



February

We issued three public interest reports, two covering health matters and one regarding student loan finance.



March

We published thematic report entitled 'Justice Mislaid: Lost Records and Lost Opportunities'.



Our Key Performance Indicators

Like all public bodies, we measure our performance against a set of Key Performance Indicators (KPIs). The table below presents an overview of our KPIs. We discuss these figures in more detail throughout this Report. You can navigate easily to the relevant sections of the Report by clicking on the KPI title in the table below.

	2018/19	Target 2019/20	2019/20	Target 2020/21
KPI 1: Complaints about public bodies - decision times				
Decision that a complaint is not within jurisdiction < 3 weeks	83%	90%	95%	90%
Decision taken not to investigate a complaint (after making initial enquiries) < 6 weeks	84%	90%	92%	90%
Where we seek early resolution, decision within 9 weeks	85%	90%	94%	90%
Decision to investigate and start investigation within 6 weeks of the date sufficient information is received	55%	80%	67%	80%
KPI 2: Complaints about public bodies which are investigated - cases closed				
Cases closed within 12 months	82%	85%	81%	85%
KPI 3: Code of Conduct complaints - decision times				
Decision taken not to investigate within 6 weeks	92%	95%	93%	90%
Decision to investigate and start investigation within 6 weeks of the date sufficient information is received	76%	80%	86%	90%
KPI 4: Code of Conduct complaints which are investigated - cases closed				
Cases closed within 12 months	88%	90%	88%	90%
KPI 5: Customer satisfaction*				
Easy to find PSOW	84%	90%	91 / 98%	91 / 98%
Service received helpful	51%	70%	63 / 83%	63 / 83%
Clear explanation of process and decision	71%	80%	65 / 89%	65 / 89%

* In 2019/20 we changed the way we measure our customer satisfaction, which makes it difficult to assess our performance against the 2019/20 targets. The 2019/20 results are presented for all respondents as well as those satisfied with the outcome.

	2018/19	Target 2019/20	2019/20	Target 2020/21
KPI 6: Compliance				
% of recommendations made due and complied with by public service providers in the year	N/A	N/A	72%	N/A
Number of compliance visits	1	3	4	6
KPI 7: HR				
Completion of PRDP (appraisal) reviews	100%	100%	100%	100%
Employee response to staff survey	86%	85%	92%	N/A
KPI 8: Staff training				
% of staff achieving target number of days of continuing professional development	77%	90%	93%	95%
KPI 9: Staff attendance				
Average number of days lost through sickness per member of staff	3.3	< 6	9.0	6.5
% of working days lost through staff sickness	1.2%	2.0%	3.4%	2.5%
% of working days lost through short term sickness	N/A	N/A	1.0%	1%
% of working days lost through long term sickness	N/A	N/A	2.4%	1.5%
KPI 10: Financial				
Cash repaid to Welsh Consolidated Fund	0.5%	< 3%	1.0%	< 3%
Unit cost per case	£599	£700	£669	£700
Support costs as percentage of budget	3.5%	< 5%	4.3%	< 5%
External Audit Opinion on Accounts	Unqualified accounts	Unqualified accounts	Unqualified accounts	Unqualified accounts
Internal Audit Opinion on internal controls	Substantial Assurance	Substantial Assurance	Substantial Assurance	Substantial Assurance
KPI 11: Complaints about us				
Number of complaints received	30	N/A	36	N/A
Number of complaints upheld	9	N/A	7	N/A
KPI 12: Sustainability				
Waste (kg)	31,110	<30,000	26,996	26,000
Electricity (kWh)	106,701	<100,000	104,521	104,000

Code of Conduct complaints

(a) New Code of Conduct complaints

This year we received **231** new Code of Conduct complaints - a decrease of 18% compared to 2018/19:

Body	2019/20	2018/19
Town and Community Councils	135	190
County and County Borough Councils	96	91
National Parks	0	1
Total	231	282

This decrease relates entirely to complaints made against members of Town and Community Councils. This is encouraging and suggests that standards of conduct of members of these bodies may be improving and/or that local resolution of issues may be taking place with good effect.

Nevertheless, within a small number of Town and Community Councils we are still seeing complaints which appear to border on frivolity or are motivated by political rivalry or clashes of personalities, rather than being true Code of Conduct issues.

In fact, 18% of the Town and Community Council complaints received related to members of just one body and were, in effect, 'tit for tat' complaints. In those cases, we were very grateful to the Monitoring Officer of the principal authority who agreed to visit the Council to remind its members of their obligations under the Code and their democratic responsibilities to the communities they serve.

We take a very dim view of complaints of this nature and have, where appropriate, advised members that making frivolous and/or vexatious complaints is a breach of the Code of Conduct in itself.

We categorise the subject of the Code of Conduct complaints based on [the Nolan Principles](#), which are designed to promote high standards in public life.

The table below shows the proportion of complaints received under each principle when compared to 2018/19:

Subject	2019/20	2018/19
Accountability and openness	11%	7%
Disclosure and registration of interests	17%	17%
Duty to uphold the law	7%	9%
Integrity	10%	13%
Objectivity and propriety	2%	2%
Promotion of equality and respect	49%	51%
Selflessness and stewardship	3%	1%

As in previous years, the majority of the Code of Conduct complaints that we received during 2019/20 related to **matters of 'promotion of equality and respect' (49%)** and **'disclosure and registration of interests' (17%)**.

We are concerned that these themes continue to dominate. In fact, we have seen year on year an increase in the number of complaints where bullying behaviour is being alleged, particularly from Clerks or employees/contractors of Local Authorities or Town and Community Councils.

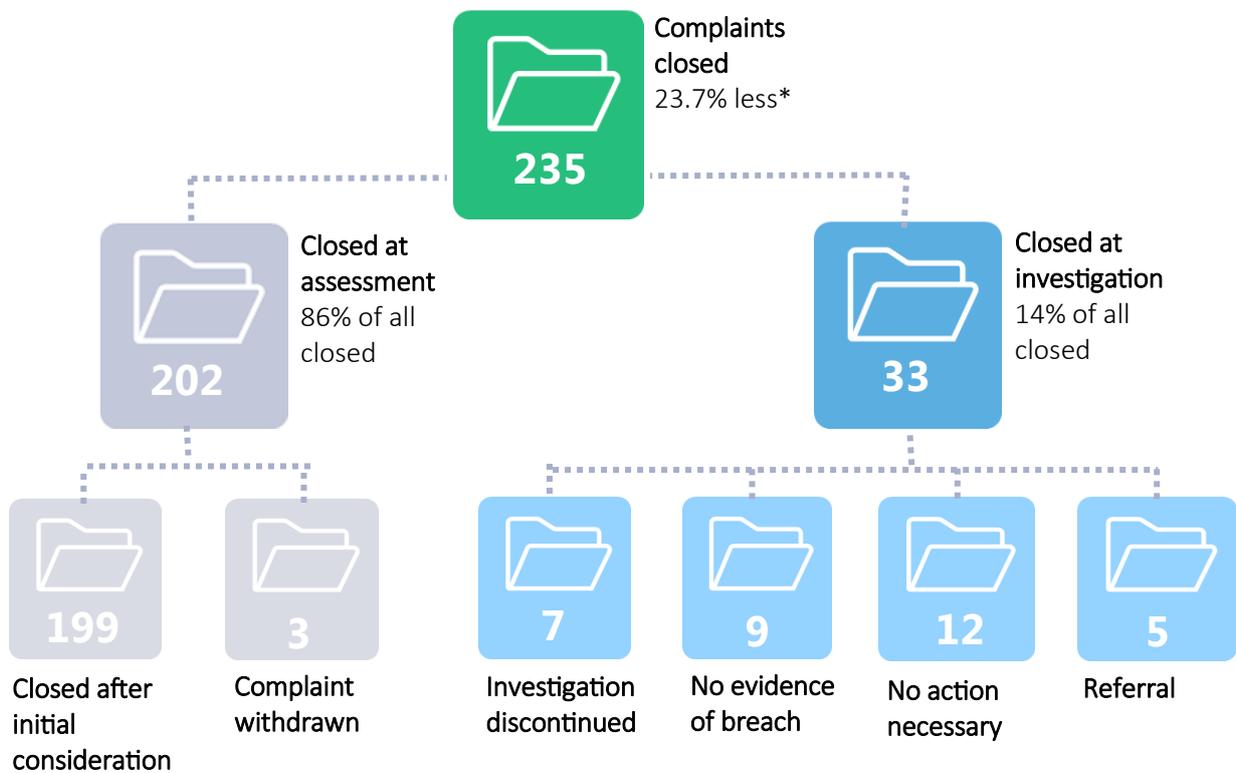
This suggests that members could benefit from training or refresher training on these subjects. However, our impression from investigations is that many members of Town and Community Councils often do not take up opportunities offered to them to receive training on the Code of Conduct.

Our view is that Code of Conduct training is essential to becoming a 'good councillor'. We believe that members should embrace this training as soon as they become elected/co-opted and refresh themselves on the provisions regularly. Whilst there is no statutory obligation for members of Town and Community Councils to complete such training, we and the Monitoring Officers across Wales strongly advise them to do so.

(b) Closed Code of Conduct complaints

This year we closed 235 Code of Conduct complaints. This represented a 23.7% decrease compared to the previous year. The rate of closures was also inevitably affected by the number of new complaints received. However, we are glad that we still closed more complaints this year than we received.

The graphic below presents an overview of outcomes of the Code of Conduct complaints that we closed in 2019/20:



* compared to 2018/19

All the Code of Conduct complaints received by our office are assessed against our two-stage test. We consider whether:

- a complaint is supported by direct evidence that is suggestive that a breach has taken place
- it is in the public interest to investigate that matter.

Public interest can be described as “something which is of serious concern and benefit to the public”

In 2019/20, **we closed 202 or approximately 86% of all Code of Conduct complaints after assessment against our two-stage test or after a complaint was withdrawn at the assessment stage**. This proportion is only marginally higher compared to the previous year (83%).

The remaining complaints taken forward to investigation represented the most serious of the complaints received.

During the life cycle of an investigation, we review the evidence gathered to assess whether it remains in the public interest to continue. Where it appears that investigating a matter is no longer in the public interest, we will make the decision to discontinue that investigation. Also, sometimes when we investigate we find no evidence of a breach. Finally, when an investigation is concluded, we can determine that ‘no action needs to be taken’ in respect of the matters investigated. This will often be the case if the member has acknowledged the behaviour (which may be suggestive of a breach of the Code) and has expressed remorse or taken corrective or reparatory action to minimise the impact of it on the individual, the public or the authority concerned.

We made one of these determinations in 85% of the Code of Conduct investigations this year.

In cases which cannot be concluded in this manner or feature serious breaches of the Code, it is necessary for us to refer these matters to a Standards Committee or the Adjudication Panel for Wales for consideration. In 2019/20 **we made 5 referrals - that is, we referred 2% of all the Code complaints that we closed, compared to 8 or 3% last year**.

The subjects of the Code of Conduct complaints that we closed this year largely mirrored the subjects of the new complaints received. The majority related to ‘disclosure and registration of interests’ and ‘promotion of equality and respect’. We did, however, investigate a higher proportion of cases related to ‘disclosure and registration of interests’ than the proportion of this theme in the closed Code of Conduct complaints overall:

Subject	All closed	Closed at assessment	Closed at investigation
Disclosure and registration of interests	17%	15%	30%
Promotion of equality and respect	49%	50%	42%

(c) Referrals

In 2019/20 we made:

- 4 referrals to the Standards Committees
- 1 referral to the Adjudication Panel for Wales

The Adjudication Panel for Wales and the Standards Committees consider the evidence we prepare, together with any defence put forward by the member concerned. They then determine whether a breach has occurred and if so, what penalty, if any, should be imposed.

The referrals to the Standards Committees this year featured behaviour which was considered to be disrespectful, capable of being perceived as bullying and/or disreputable behaviour. One of the cases referred involved conduct suggestive of bullying behaviour towards an employee of a contractor of the authority. At the time of writing, the Adjudication Panel for Wales was considering an appeal, on the issue of sanction only, in this case. Two of the referrals featured behaviour which suggested that the members had used their positions improperly to create an advantage or disadvantage for themselves or others. At the time of writing, these two referrals were awaiting determination.

The referral to the Adjudication Panel for Wales concerned the conduct and behaviour of a member in their private life and considered whether the behaviour complained about was capable of impacting on and bringing the authority into disrepute. It also concerned whether that member had used their position improperly for the advantage of another. In the case of this referral, the Panel determined there were serious breaches of the Code. As a result, a member of Flintshire County Council was suspended from holding office for 3 months.

Between 2016/17 and 2018/19, the Adjudication Panel for Wales and the Standards Committees upheld and found breaches in 88% of our referrals

This year Standards Committees and the Adjudication Panel for Wales also determined 5 cases referred by us in 2018/19. In all these cases, the Standards Committees and the Panel found serious breaches of the Code. Some of the breaches found included serious examples of disrespectful, disreputable and improper behaviour on the part of members towards other members and members of the public. In one case, the member was found to have been in breach of the Code for attempting to interfere with and prejudice our investigation of a complaint made about them. In all cases, the members, or former member, concerned were suspended for a period of 4 months.

(d) Lessons

As is clear from the above, we make referrals only in a very small number of cases. We do not believe that the cases that we do refer are indicative of a wider decline in member conduct. Nevertheless, outcomes of these referrals demonstrate the importance of standards of conduct in public life and provide a helpful indication to members of all authorities as to the behaviours expected of them.

However, even when we do not refer a case, we try to use our investigation as an opportunity to promote good practice. We usually remind the members investigated of their obligations under the Code and, where possible include instruction on further training or engagement with the authority to prevent further possible breaches. We may also make the members aware that the matter could be taken into consideration in the event of any future complaints of a similar nature.

We think that it is important that we continue to look for innovative and pragmatic ways to resolve matters to ensure a timelier outcome for all concerned. Where appropriate, we also want to give members the opportunity to account for their own actions and for further development.

We plan to revise our Guidance to Members to include analysis of recent cases determined by Standards Committees and the Adjudication Panel for Wales.

(e) Whistleblowing disclosure report

Since 1 April 2017, the Ombudsman is a 'prescribed person' under the Public Interest Disclosure Act 1998. The Act provides protection for employees who pass on information concerning wrongdoing in certain circumstances.

The protection only applies where the person who makes the disclosure reasonably believes:

1. that they are acting in the public interest, which means that protection is not normally given for personal grievances
2. that the disclosure is about one of the following:
 - criminal offences (this includes financial improprieties, such as fraud)
 - failure to comply with duties set out in law
 - miscarriages of justice
 - endangering someone's health and safety
 - damage to the environment
 - covering up wrongdoing in any of the above categories.

As a 'prescribed person' we are required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints only.

In 2019/20 we received 5 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. The disclosures mostly related to allegations that the members concerned had 'failed to comply with duties set out in law'. Of these:

- we closed 2 after an investigation did not identify evidence of a breach of the Code
- we concluded in 1 case that no further action was required
- at the time of writing, investigation into 2 cases is continuing.

In addition, 3 cases which were ongoing in 2018/19 have now been concluded.

These cases have been referred to the Standards Committees of the respective councils for further consideration.

Timeliness

We are conscious of the need to consider complaints in a timely manner. The length of our process reflects the need to investigate thoroughly and diligently, to consider carefully the views and comments of complainants and public bodies and to draw on professional advice when needed. Whilst there is still more work for us to do, the timeliness of our service in 2019/20 has improved in most areas compared to the previous year.

The table below presents our performance this year against our Key Performance Indicators:

	Target	2019/20	2018/19
Complaints about public bodies - decision times			
Decision that a complaint is not within jurisdiction < 3 weeks	90%	95%	83%
Decision taken not to investigate a complaint (after making initial enquiries) < 6 weeks	90%	92%	84%
Where we seek early resolution, decision within 9 weeks	90%	94%	85%
Decision to investigate and start investigation within 6 weeks of the date sufficient information is received	80%	67%	55%
Complaints about public bodies which are investigated - cases closed			
Cases closed within 12 months	85%	81%	82%
Code of Conduct complaints - decision times			
Decision taken not to investigate within 6 weeks	95%	93%	92%
Decision to investigate and start investigation within 6 weeks of the date sufficient information is received	80%	86%	76%
Code of Conduct complaints which are investigated - cases closed			
Cases closed within 12 months	90%	88%	88%

Whilst we have made progress in improving the proportion of investigated cases where the investigation is started within 6 weeks, we have not yet reached our target of 80%. However, we have been working on this aspect of our service and have been doing better as the year progressed.

We reported last year that an increased number of complex complaints about health services would affect our ability to complete investigations within 12 months. We also reported that performance was likely to be worse in 2019/20 as more older cases were closed. We actually completed investigations within 12 months in 81% of cases (82% in 2018/19). We continue to consider some cases against public bodies brought forward from 2018/19. These will unfortunately continue to affect our ability in 2020/21 to meet our target of 85% cases closed within 12 months.

We measure timeliness from the point at which we have sufficient information from the complainant to decide how to proceed. This is so that our reported performance reflects the experience of complainants. However it also means that our performance is affected by any delays on the part of public bodies, or our clinical advisers to respond to us, as well as the

timeliness of our own work.

We are working hard to focus on completing investigations and issuing reports, but Covid-19 related pressures and restrictions are understandably limiting the ability of GPs, Health Boards and Local Authorities to engage with our investigations. We are avoiding putting additional pressures on these organisations during these challenging times.

Our performance regarding Code of Conduct complaints is broadly consistent with the previous year, with work ongoing to improve our performance against Key Performance Indicators.

Ombudsman Ombwdsmon

PUBLIC SERVICES OMBUDSMAN FOR WALES
OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU

Delivering Justice

The Public Services Ombudsman for Wales

ANNUAL REPORT AND ACCOUNTS

2019/20

Executive Summary



Message from the Ombudsman

This document was prepared during the Covid-19 global pandemic which has put unprecedented pressures on Welsh public services, particularly health and social care. I am therefore glad to report this year some trends that could indicate improvement in practice by bodies in my jurisdiction.



We saw this year fewer new complaints; a smaller proportion of cases where we found maladministration or service failure; and fewer most serious cases, requiring us to issue a public interest report or refer an alleged breach of the Code of Conduct to the Adjudication Panel for Wales or Local Authority Standards Committees.

Amongst the main highlights of the year, in 2019 the National Assembly for Wales passed our new Act. We are now the first ombudsman office in the UK to have full and operational powers to drive systemic improvement of public services through investigations on own initiative and the Complaints Standards role. We took this year major steps to implement these new powers, alongside our more traditional work to promote improvement.

None of this work would have happened without my dedicated staff. My thanks to them for the excellent work that they have done in delivering justice in Wales.

Nick Bennett

Public Services Ombudsman for Wales

About us

We have three main roles:

- handling complaints about public service providers
- considering complaints about breaches of the Code of Conduct by elected members
- driving systemic improvement of public services.

We are independent of all government bodies and the service we provide is free of charge.

We are based in Pencoed, South Wales. We also have a small office in North Wales.

Contact us

1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ

0300 790 0203

ask@ombudsman.wales

<https://www.ombudsman.wales/>



We have **73** staff





We deliver for those who have suffered injustice

New enquiries and complaints

2019/20

7200



2018/19

7116

New complaints about public bodies

2242



2207

About

1.6%

more new complaints about public bodies. This could indicate a drop in their performance - but could also be attributed to increasing awareness of our service.

Health

41%



41%

Housing

15%



12%

Complaint handling

9%



11%

Social services

8%



9%

Planning and building control

7%



9%

Other

20%



18%

Despite the same level of complaints about health overall,

3%

fall in new complaints about Health Boards, suggesting that our work with these bodies may be helping to support improvement.

New Code of Conduct complaints

231



282

About

18%

fewer allegations of breaches of the Code of Conduct, due to a significant and welcome drop in frivolous complaints made against members of Town and Community Councils.

Promotion of equality and respect

49%



51%

Disclosure and registration of interests

17%



17%

Accountability and openness

11%



7%

Integrity

10%



13%

Duty to uphold the law

7%



9%

Selflessness and stewardship

3%



1%

Objectivity and propriety

2%



2%

We had to **intervene in** (uphold, settle or resolve early) a smaller proportion of complaints about public bodies: **20%** compared to **24%** last year.

We also **referred** a smaller proportion of Code of Conduct complaints to a Standards Committee or the Adjudication Panel for Wales: **2%** compared to **3%** last year.

1222

recommendations issued to public bodies.

Almost **£80k**

of financial redress recommended.

0

We did not need to issue any special reports.

20%

of our recommendations highlighted retraining or process reviews. This can lead to significant improvement in public services.

An example of impact of our recommendations

We investigated this year a complaint brought to us by the family of someone who had sadly died. The family was concerned about the care given by the Health Board in question, including intravenous (IV) fluid management. We recommended that the Health Board review its procedures. As a result, the Health Board recognised it did not have an up to date IV fluid management policy. The Health Board also appointed a clinical lead to co-ordinate new guidelines and, in December 2019, published new guidance on this issue.

We innovate and drive improvement across the public sector



Our new legislation passed in 2019 gave us new powers to undertake investigations on 'own initiative' as well as to establish a Complaints Standards role.



We launched a consultation on our proposal to focus our first own initiative investigation on homelessness.



We finalised our Complaint Handling Principles, Model Complaints Handling Policy and accompanying guidance.



We engaged extensively about our new powers with stakeholders across Wales.



We issued criteria and a process for undertaking own initiative investigations.



We started to gather data from Local Authorities on their complaint handling, finding much divergence in practices across Wales.

We also continued to share our findings through public interest reports, casebooks, thematic reports and annual letters to the bodies in our jurisdiction.

We issued:

		About	
4 public interest reports	Health	 2	
	Planning	 1	
	Student loans	 1	
1 thematic report	Justice Mislaid: Lost Records and Lost Opportunities		

We published our first [Equality and Human Rights Casebook](#)



“The new Human Rights Casebook by the Public Services Ombudsman for Wales is an excellent resource for ensuring that public bodies remain committed to their equality and human rights obligations.”

Equality and Human Rights Commission



We embrace learning and welcome feedback

227 review cases were closed.

11% of these reviews identified that we could do more, often where additional evidence was provided by the complainant.

32 complaints about us were closed.

22% of these were upheld or partially upheld.

57% of all complainants questioned were satisfied with our customer service...

...rising to **98%** amongst those satisfied with the outcome of their complaint.



We strive to ensure and promote accessibility, equality and diversity

91% of our customers questioned found it easy to contact us.

48% of respondents to a national survey knew about us.

2% of complaints were received orally. We are planning more outreach around this power in 2020/21.

87% of respondents to our staff survey felt that PSOW is committed to creating a diverse, equal and inclusive workplace.



We signed up as a Disability Confident Committed Employer.



We achieved the silver FairPlay Employer level for gender equality.



We care for and invest in our staff

99%

of respondents to our staff survey were proud to work for PSOW.

93%

of staff completed 28 or more hours of continuing professional development.

We saw the average percentage of working days lost through staff sickness increase to

3.4%



... but we launched our new Wellbeing Strategy and a number of actions to support staff wellbeing.



We are accountable and transparent about our performance and use of resources

Our budget

£4,954k

92%

of our budgeted funding for new powers (£231k) was actually spent on implementation.

Our unit cost per case

£669

Over the last 7 years we have seen

a **34%** rise in workload

a **14%** fall, in real terms, in unit cost per case.



We attended two scrutiny sessions with the National Assembly for Wales.



We reduced our energy usage by 2%.



We maintained close links with colleagues in the UK, Europe and around the world.



We reduced our waste by 13.2%.

We avoided

41%

more commuting mileage per day.



Introduction

The Model Code of Conduct (“the Code”) for councillors sets out the high standards of behaviour which the public expects from its elected representatives.

Our role is to consider complaints that members of local authorities, community councils, fire and rescue authorities, national park authorities and police and crime panels in Wales have breached their authority’s Code.

Our role is crucial in supporting the Standards Committees of local authorities to help councillors achieve the standards of conduct that meet public expectations. We aim to support proper decision making and the proper use of public resources and to maintain public confidence in local government and in the democratic process itself. Undertaking investigations that do not support these wider benefits is not in the public interest.

The Ombudsman is firmly of the view that our limited resources should not be used to investigate matters which are trivial or which have little or no impact on the public. It is important that we focus our investigations on matters that are serious and are capable of undermining the relationship between councillors and the public they serve, such as corruption, bullying and misuse of power in public office.

The two-stage test

Our process requires the application of a two-stage test. Where we are satisfied that a complaint is supported by direct evidence that a breach has taken place, initially the public interest is considered in deciding whether a complaint against a councillor can and should be investigated. We consider the public interest again during the course of an investigation to ensure that it should continue and, finally, again, when determining whether a matter should be referred to a Standards Committee (SC) or to the Adjudication Panel for Wales (APW) for consideration.

There is no widely accepted definition of public interest, but it has been described as “something which is of serious concern and benefit to the public”. The public interest therefore relates to something which

120 has an impact on the public and is not merely a matter the public finds to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

The public in this context does not necessarily mean the entire population of Wales. It may refer to a distinct section of the public such as a small community or interest group.

The published public interest factors we may take into account are set out below:

- the seriousness of the breach
- whether the member deliberately sought personal gain for themselves or another person at the public expense
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to another
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity

Considerations

When taking any of the above factors into account, relevant considerations can include the circumstances of the complaint; the extent to which the councillor was responsible for, or was to blame for, the alleged breach; whether the alleged conduct was premeditated and/or planned and whether the alleged conduct has caused harm or impacted on another person, group or body. Views expressed by the complainant, or any other person affected by the alleged conduct, relating to the impact and effect should also be considered. Other considerations may be:

- whether there is evidence of previous similar behaviour on the part of the member
- whether the Councillor been the subject of any previous complaints or investigations, or been referred to the SC or APW for a similar matter? Is the alleged conduct ongoing, repeated or is there evidence of escalating behaviour
- whether the investigation or referral to an SC or the APW is required to maintain public confidence in elected members in Wales
- whether investigation or referral to an SC or the APW is a proportionate response. Consider whether it is likely that the breach would lead to a sanction being applied to the member and whether the use of resources in carrying out an investigation or hearing by an SC or the APW would be regarded as excessive, when weighed against any likely sanction.

Public interest should not be decided on the basis of resource alone but this is a relevant consideration when making an overall assessment. A balanced view should be taken and consideration of the outcomes of previous cases considered by SC's across Wales and the APW will be helpful in achieving this.

The list is not exhaustive and not all factors will be relevant to every case.

Contact us

If you would like more information, please [contact us](#).

Also available in Welsh.

ask@ombudsman.wales

0300 790 0203

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SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER

AGENDA ITEM NO 10
 1 FEBRUARY 2021

PUBLIC SERVICES OMBUDSMAN FOR WALES – CODE OF CONDUCT CASEBOOK

SUMMARY

This report presents to Members the Public Services Ombudsman for Wales Code of Conduct Casebook, issue 23.

RECOMMENDATION

It is recommended that Members note the content of the Ombudsman Code of Conduct Casebook, issue 23, published by the Public Services Ombudsman for Wales.

1. ISSUE

- 1.1 The Public Services Ombudsman for Wales produces quarterly Code of Conduct casebooks. Since Members considered Issues 19 to 22 of the Code of Conduct Casebook (covering the periods October 2018 to September 2019), the Ombudsman has only published one further casebook (issue 23) on its website. This is attached to the report at Appendix 1.
- 1.2 Members should note that all of the Casebooks are available to be accessed via the Ombudsman website.

2. RECOMMENDATION

- 2.1 It is recommended that Members note the content of the Ombudsman Code of Conduct Casebook, issue 23, published by the Public Services Ombudsman for Wales.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	Public Services Ombudsman for Wales Code of Conduct Casebook

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The Code of Conduct Casebook

Issue 23 January 2020

Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- a) that there is no evidence that there has been a breach of the authority's code of conduct;
- b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defense put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers October to December 2019.

The Code of Conduct Casebook

Issue 23 January 2020

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Case summaries

No evidence of breach

There are no summaries in relation to this finding.

No action necessary

[Merthyr Tydfil County Borough Council – Duty to uphold the law](#)
Case Number: 201805269 - Report issued in December 2019

The Ombudsman received a complaint that a Member (“the Member”) of Merthyr Tydfil County Borough Council (“the Council”) had breached the Code of Conduct by voting on the setting of the rate of council tax at a meeting of Full Council in March 2018 when he was in arrears of council tax for a former home. It is an offence under s106 of the Local Government Finance Act 1992 for a member to vote on setting the rate of council tax when they are themselves in arrears.

The relevant parts of the Code in this case are paragraphs 6(1)(a) relating to bring the authority into disrepute and paragraphs 10(1), 11(1) and 14(1)(a), (b) and (c) about the actions a member should take if they have a personal and prejudicial interest in a matter the authority is considering.

The Ombudsman obtained relevant documentary evidence, including copies of the council tax records for the property involved. He also viewed the webcast for the meeting of Full Council and interviewed the Council’s Monitoring Officer and the Member.

The Ombudsman considered that the evidence suggested that the Member had breached the Code as he accepted that he had not declared an interest and had voted on setting the council tax rate. The Member also accepted that at the time of that meeting he was in arrears of council tax for the former property. However, the Ombudsman decided that it would not be in the public interest to pursue the matter given the significant mitigating circumstances in this particular case. These included the personal circumstances that had led to the Member incurring the original debt and the fact that the member was inexperienced. He had apologised, paid off the arrears and said that it would not happen again. In view of the mitigating circumstances, the Ombudsman concluded that no further action needed to be taken

[Merthyr Tydfil County Borough Council – Disclosure and registration of interests](#)
Case Number: 201807334 – Report issued in December 2019

The Ombudsman received a complaint that a Member (“the Member”) of Merthyr Tydfil County Borough Council (“the Council”) had breached the Code of Conduct. It was alleged that, contrary to the Monitoring Officer’s advice that a conflict of interest existed, the Member accepted a specific cabinet position. It was also alleged that the Member had failed to declare an interest in such matters.

During the investigation, information was sought on the Monitoring Officer’s advice, and the Member was interviewed. The Member explained that he had considered the advice of the Monitoring Officer and was confident that an appropriate strategy had been formulated to manage and mitigate any potential conflicts of interest. The Member said that he and the Leader of the Council had undertaken research to identify where similar scenarios had occurred in other councils and the impact it had on those authorities. The Member also produced evidence of declarations of interest that he had made.

Although the Ombudsman was satisfied that the Member had regard to the Monitoring Officer’s advice, the lack of transparency in relation to aspects of the appointment (including the timing of

the Member's resignation from employment which would have conflicted with the appointment) was of concern and caused others to reasonably question the appointment. As the Member had eventually resigned from his former employment and taken up his role the Ombudsman found that it was not in the public interest to pursue the matter further and found that no further action needed to be taken. Given the potential for a conflict of interest to arise, the Member was reminded of the need to seek advice from the Monitoring Officer in future matters.

Referred to Standards Committee

There are no summaries in relation to this finding.

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding.

SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER

AGENDA ITEM NO 11
 1 FEBRUARY 2021

STANDARDS CONFERENCE WALES: OCTOBER 2021

SUMMARY

This report advises Members that the Standards Conference Wales will be held in October 2021.

RECOMMENDATION

That Members note the revised timing and format of the conference.

1. ISSUE

- 1.1 A Standards Conference is usually held on an annual basis. The Conference is aimed at Councillors, Officers and Independent Members involved in promoting and maintaining high standards of conduct within authorities in Wales and provides an opportunity to network and discuss issues of common interest and best practice.
- 1.2 At a recent Monitoring Officers' meeting held virtually it was agreed that a Standards Conference would not be held in 2020 due to the impact of the COVID 19 pandemic. At the same meeting it was subsequently further agreed that the next Annual Conference would be held in October 2021 and undertaken virtually.
- 1.3 The Monitoring Officer will inform all Members of the Standards Committee as soon as a date and the invitation details of a Conference in October 2021 are received.

2. RECOMMENDATION

- 2.1 That Members note the revised timing and format of the Conference.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None

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1.	Roll Call	
2.	Apologies for Absence	
3.	Declarations of Interest	
	Members of the Standards Committee are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct	
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