

**STANDARDS COMMITTEE**

**15<sup>TH</sup> NOVEMBER 2013**

**FINANCE AND CORPORATE SERVICES**

**REPORT OF THE HEAD OF LEGAL SERVICES AND  
MONITORING OFFICER**

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**ITEM 1**  
**PART 1 SECTION B**

**Public Services Ombudsman for Wales Annual Letter and Report 2012/2013**

**1. Purpose of Report**

- 1.1. To advise Members of the receipt of the Ombudsman's Annual Letter and the publication of his Annual Report.

**2. Background**

- 2.1. In recent years the Ombudsman has adopted the practice of sending an annual letter to each local authority which comes within his jurisdiction. A full copy of the Appendix to that letter is reproduced for Members at Annex 1 of the tables attached to the letter, the column showing the performance of this Council is the column on the left, the exception being table G where there are no relevant figures for this Authority.
- 2.2. At Annex 2 Members will find two pages reproduced from the Ombudsman's Annual Report 2012/2013 showing comparative statistics for complaints of "maladministration" i.e. service failure, delay etc. and alleged breaches of the Members' Code of Conduct.
- 2.3. Section B of Annex 1 shows that complaints of maladministration run right across the functions of the Local Authority. The highest number of complaints relates to planning and building control. Members should not be too concerned about this fact; the highest number of complaints have always tended to be about planning and housing due to the nature of the activities carried out. I see the complaints as they come in and make appropriate comments to Heads of Service if any patterns are detectable. Useful comparison tables are found in Section C. The planning and building control figures are comparable with the Local Authority average. Members will note that the figures for complaints on Children's Social Services received by the Ombudsman are now down to the Welsh average for the financial year 2012-2013 as opposed to the higher figures for 2011-2012.

- 2.4. I have noted that for two years running the number of complaints treated as “premature” is higher than the Local Authority average. These figures can be found in Section F. The Ombudsman generally expects that members of the public will use internal complaints procedure before coming to the Ombudsman. Complaints referred back to the Local Authority because the complainant has not used the internal complaints procedure as treated as premature. It may be that further work is necessary to publicise the Council’s own complaints procedure in order to reduce this figure in future.
- 2.5. The extracted tables at Annex 2 are there for information only and do not require any further comment.

3. **Recommendations**

That the Ombudsman’s Annual Letter and Report be noted and it be noted that the issue of publicity for the internal complaints procedure will be referred to the Officers Complaints Group via the appropriate Cabinet Board.

4. **List of Background Papers**

Public Services Ombudsman for Wales Annual Report 2012/2013.

5. **Wards Affected**

All

6. **Officer Contact**

Mr. David Michael – Head of Legal Services  
E-mail [d.michael@npt.gov.uk](mailto:d.michael@npt.gov.uk). Tel: 01639 763368

## **Appendix**

### **Explanatory Notes**

Section A compares the number of complaints against the Council which were received by my office during 2012-2013, with the local authority average (adjusted for population distribution<sup>1</sup>) during the same period.

Section B provides a breakdown of the number of complaints about the Council which were received by my office during 2012-2013. Section C compares the number of complaints against the Council which were received by my office during 2012-2013, with the local authority average for the same period. The figures are broken down into subject categories.

Section D provides the number of complaints against the Council which were taken into investigation by my office during 2012-2013. Section E compares the number of complaints taken into investigation with the local authority average (adjusted for population distribution) during the same period.

Section F compares the complaint outcomes for the Council during 2012-2013, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section G compares the Council's response times during 2012-2013 with the average response times for all local authorities, and all public bodies in Wales during the same period. This graph measures the time between the date my office issued an 'investigation commencement' letter, and the date my office receives a full response to that letter from the public body.

Section H provides a breakdown of all Code of Conduct complaints received against Councillors during 2011-2012. Finally, Section 'I' contains the summaries of all reports issued in relation to the Council during 2012-2013.

### **Housing Stock**

As with previous exercises, the figures for 2012-2013 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

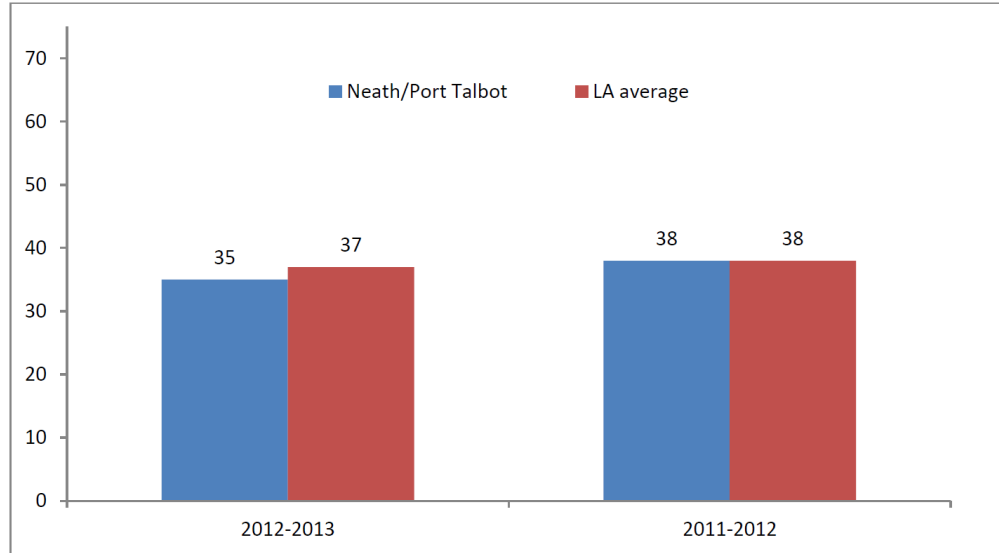
### **Feedback**

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

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<sup>1</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-262039>.

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

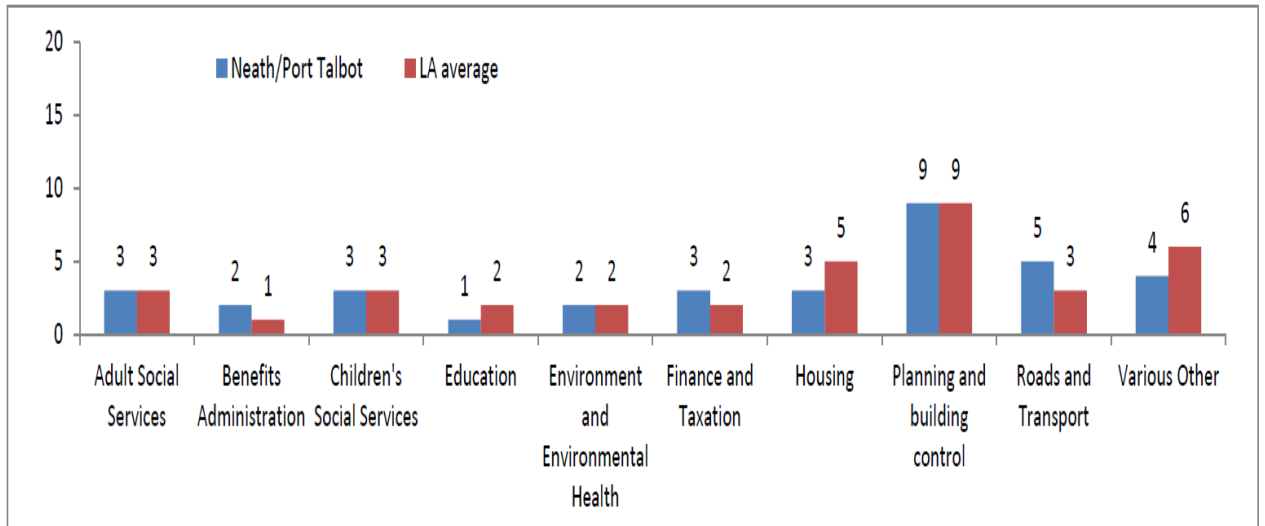


**B: Complaints received by my office**

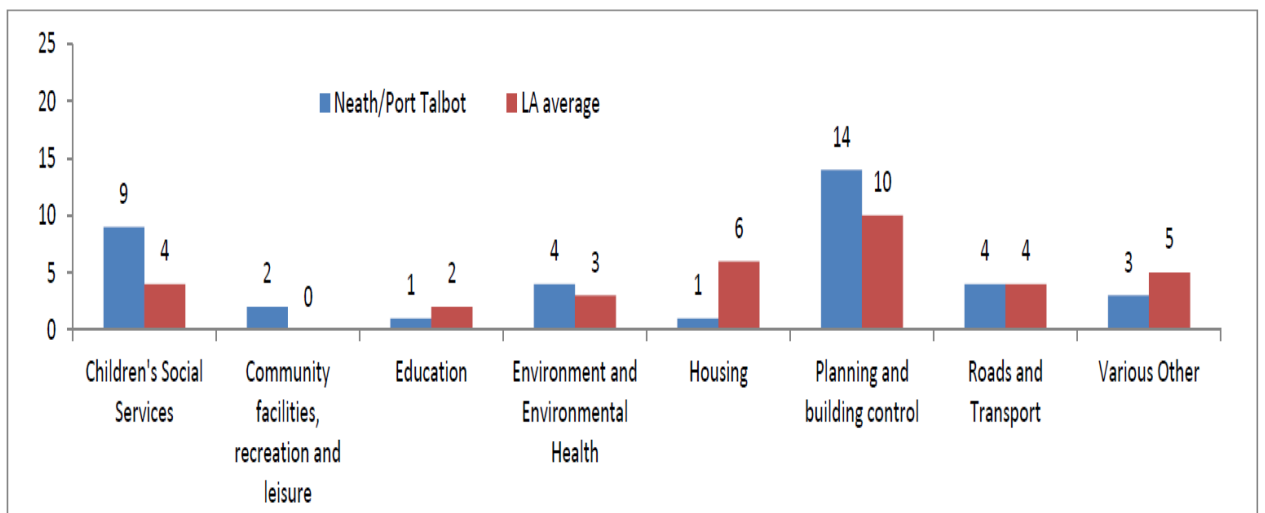
Subject	2012-2013	2011-2012
Adult Social Services	3	0
Benefits Administration	2	0
Children's Social Services	3	9
Community facilities, recreation and leisure	0	2
Education	1	1
Environment and Environmental Health	2	4
Finance and Taxation	3	0
Housing	3	1
Planning and building control	9	14
Roads and Transport	5	4
Various Other	4	3
<b>Total</b>	<b>35</b>	<b>38</b>

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

**2012-2013**



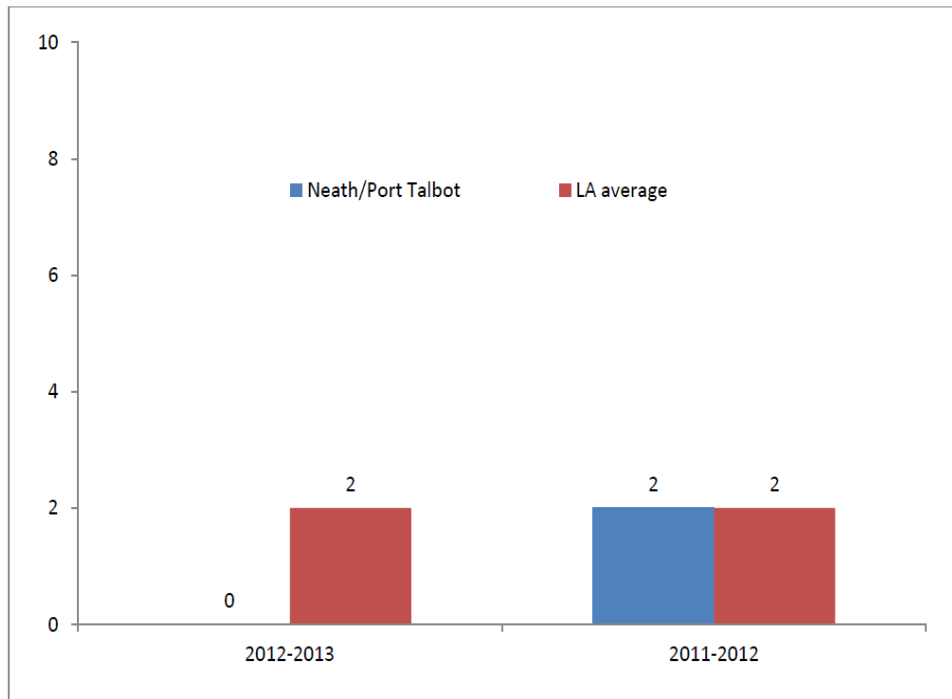
**2011-2012**



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

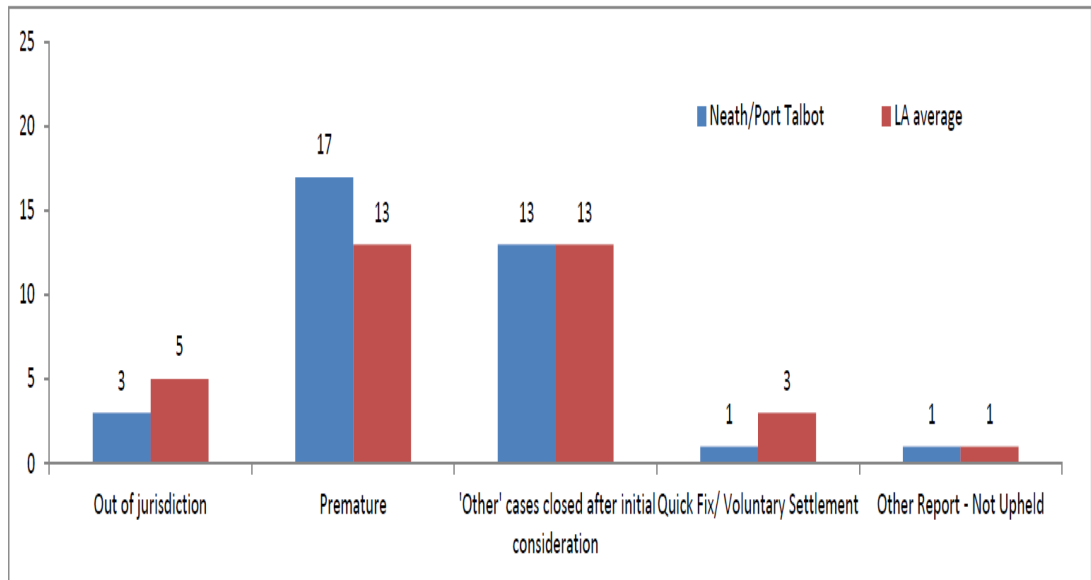
	2012-2013	2011-2012
Number of complaints taken into investigation	0	2

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

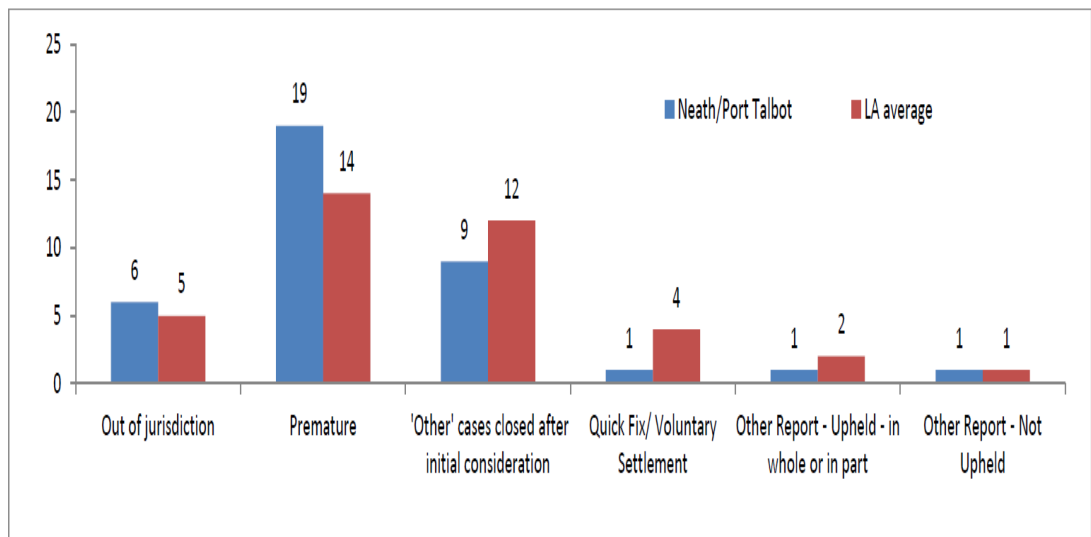


**F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution**

**2012-2013**



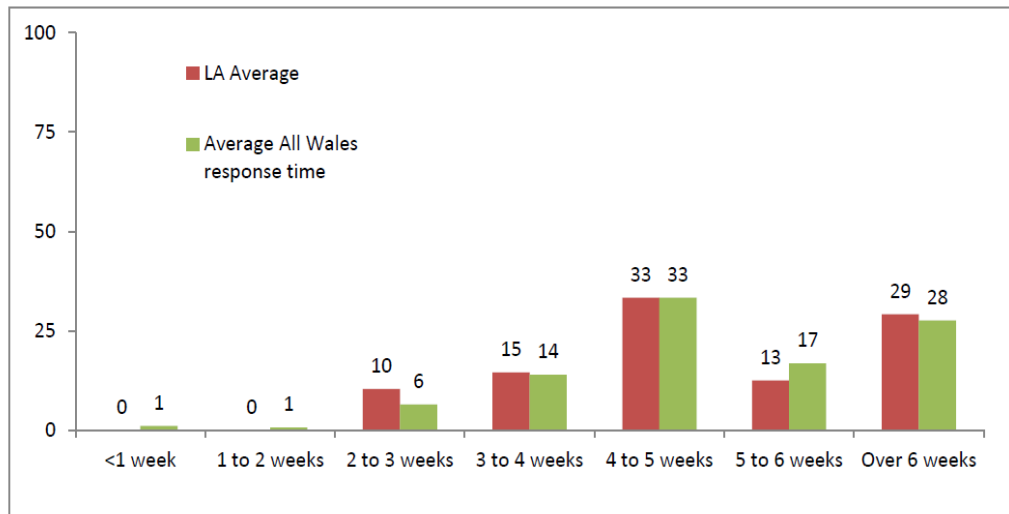
**2011-2012**



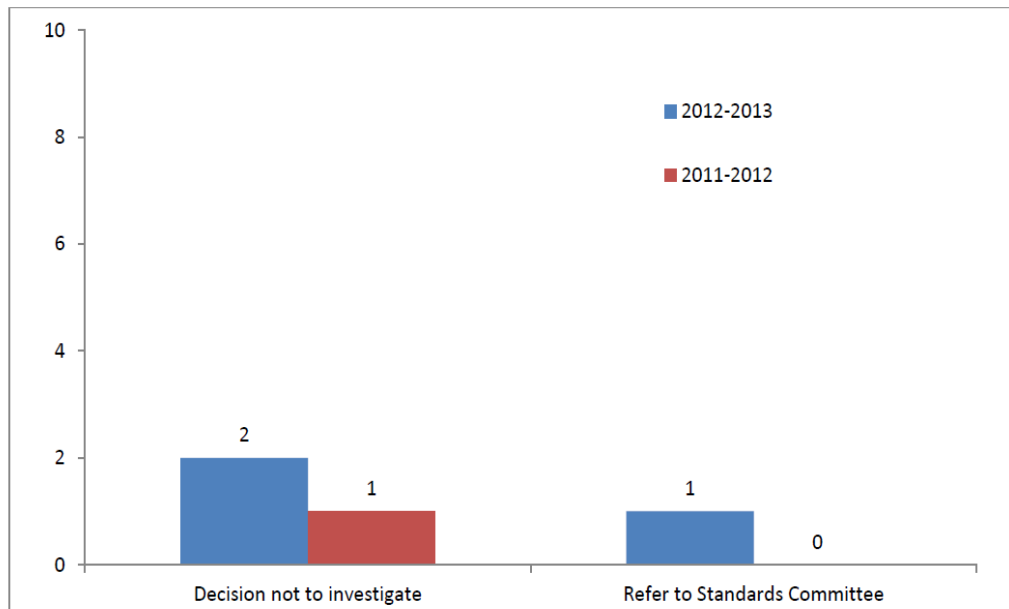


**G: Comparison of Council times for responding to requests for information with average LA and average All Wales response times, 2012 – 2013 (%)**

Graph G relates to those investigations which were commenced during 2012-2013. As there were no investigations commenced against Neath Port Talbot, there are no response times for Neath Port Talbot. However, we have included the average Local Authority response times and the average response times for all bodies in Wales for your information.



**H: Code of Conduct complaints**



**I: Report summaries**

**Planning and Building Control**

**Not Upheld**

**June 2012 – Other planning matters – Neath Port Talbot County Borough Council**

Mr Y complained that the Council was overzealous in taking planning enforcement action against him because of material stored on his property at Kenfig Industrial Estate, in breach of planning rules, whilst taking no action against the company that produced the material or the other sites where it was stored. Mr Y complained that planning enforcement action was taken against him in August 2009 when action was not taken against another company in the area until November 2010. Mr Y said that his health and finances had suffered as a result of the Council's unfair treatment.

While the investigation found that the Council could have acted sooner, we concluded that the Council had acted reasonably and proportionately in exercising its powers with respect to the material stored on Mr Y's property and to the apparent breaches of planning rules that had taken place elsewhere. The investigation could not conclude that Mr Y had been victimized or treated unfairly by the Council, or that it had acted overzealously towards him. The investigation found no evidence of maladministration on the part of the Council in this matter. The complaint was not upheld.

**Case reference 201100496**

**COUNTY/COUNTY BOROUGH COUNCILS**

County/County Borough Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Blaenau Gwent	3	4	6		1		1	1		16
Bridgend	6	9	10		1		1			27
Caerphilly	6	9	15	1	2		3	1		37
Cardiff	12	39	26		13		2		1	93
Carmarthenshire	6	16	14	2	7		4	1	1	51
Ceredigion	4	5	14	1	2			2	1	29
Conwy	3	10	9		2		1	1		26
Denbighshire	1	16	15		2		2	1	2	39
Flintshire	5	14	12	1	8		1		1	42
Gwynedd	4	11	9		2		3		1	30
Isle of Anglesey	4	7	11				2	1		25
Merthyr Tydfil	4	9	5		1					19
Monmouthshire	4	7	8	1	2		1		1	24
Neath Port Talbot	3	17	13		1			1		35
Newport	5	5	5		1				2	18
Pembrokeshire	6	17	19		4		2	1		49
Powys	4	14	18	1	7		4		1	49
Rhondda Cynon Taf	5	22	17		1		2			47
The City and County of Swansea	5	14	20	1	7		1		2	50
The Vale of Glamorgan	5	11	13		2					31
Torfaen	5	3	11					2	1	22
Wrexham	6	15	13		3		2		1	40
<b>TOTAL</b>	<b>106</b>	<b>274</b>	<b>283</b>	<b>8</b>	<b>69</b>		<b>32</b>	<b>12</b>	<b>15</b>	<b>799</b>

**COUNTY/COUNTY BOROUGH COUNCILS**

County/County Borough Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	4		1	1	1			6
Bridgend	2		1					3
Caerphilly	4		1				1	6
Cardiff	2		1					3
Carmarthenshire	6	1	2	1				10
Ceredigion	1			2		1		4
Conwy	2							2
Denbighshire	4							4
Flintshire	4							4
Gwynedd	4	2			1			7
Isle of Anglesey	5						1	6
Merthyr Tydfil	7		2			1		10
Monmouthshire	2	1	1		1			5
Neath Port Talbot	2				1			3
Newport	1						1	2
Pembrokeshire	3				1			4
Powys	4				1			5
Rhondda Cynon Taf	11		1				2	14
The City and County of Swansea	34	1	6				2	43
The Vale of Glamorgan	1							1
Torfaen	4			3		1		8
Wrexham	11	1						12
<b>Total</b>	<b>118</b>	<b>6</b>	<b>16</b>	<b>7</b>	<b>6</b>	<b>2</b>	<b>7</b>	<b>162</b>

**ITEM 2**  
**PART 1 SECTION B**

**Standing Declaration of Interest**

**1.1. Purpose of Report**

To advise Members of developments in relation to the Declaration of Interests by Members.

**1.2. Background**

1.2.1. Members of the Standards Committee will know there has been a long standing requirement for Members to enter onto a standing register any relevant interests which they have. The requirement is contained in Section 81 of the Local Government Act 2000. This together with regulations specify the interests to be declared and open the Register to public inspection.

1.2.2. On 7<sup>th</sup> March 2013 the Policy and Resources Cabinet Committee decided that the Register of Interests will be placed on-line and made available through the Council's website. Prior to this some work had been underway to put the register on an electronic base. This work was undertaken by my staff and that of the Council's ICT Section.

1.2.3. In the July and August of this year the Internal Audit Section carried out an Audit of the records in relation to Members' Interests. That Audit looked at the paper records before their translation into electronic form. The system of initial Member declaration i.e. on election is, to a certain extent, self-checking. Members declare interests at the same time as they sign the declaration of acceptance of office. Without going through that process Members cannot act. The duty to register and to update the register lies with the Member.

1.2.4. A copy of the Audit report appears in Annex 1.

Whereas the standing register has always been open to inspection by members of the public and I would provide copies of any entry on request, there was no obligation to put this information on-line.

1.2.5. The Policy and Resources Cabinet Board of the Council decided on 7<sup>th</sup> March 2013 to make available the standing register on-line through the Councils website. Work has been undertaken by my staff and that of the ICT Section and now the information appears on-line.

1.2.6. The National Assembly passed the Local Government (Democracy) (Wales) Act 2013 in August and Section 58 of that Act requires that information be made available to view electronically.

### 1.3. **Background Papers**

Internal Audit Report 31 Members' Interests

Local Government (Democracy) (Wales) Act 2013.

### 1.4. **Wards Affected**

All

### 1.5. **Officer Contact**

For further information on this report please contact:-

Mr. D. Michael, Head of Legal Services and Monitoring Officer Tel. No. 763368 or e-mail [d.michael@npt.gov.uk](mailto:d.michael@npt.gov.uk)



**Report of Internal Audit to the Director of  
Financial and Corporate Services and Other  
Named Addressees**

**Title of Report**

**Members' Interests**

**Report No. - 31**

**Issue Date – 9<sup>th</sup> August 2013**

## **1. Introduction**

In accordance with the provision contained in the Audit Plan for 2013/2014 and in line with The Members Code of Conduct, checks are to be made to ensure that declarations of personal interest have been submitted by all Members of the Authority.

Testing is also to be undertaken to ensure that all offers of hospitality and gifts are dealt with in accordance with The Members Code of Conduct and that all relevant forms are fully completed and returned to Legal Services. A check has also been completed to ensure that declarations of interest are asked for and recorded in Council Meetings.

The Head of Legal Services informed Audit that Members declarations are currently in the process of being put on the Authority's website. As part of this process, Members are advising him of any changes in their interests as necessary and he is amending the Register.

## **2. Executive Summary**

Of the 64 Members listed on the 28th June 2013, 100 per cent had completed and returned a Declaration of Interest form.

Excellent record keeping was found to be in place. Complete records were available documenting offers of hospitality accepted. All declarations made at meetings were documented and filed.

The appropriate forms were used and completed in accordance with the Members' Code of Conduct.



### **3. Findings**

#### **3.1 - Members Declaration - Members Declaration**

##### **Objective**

All members have returned a declaration of interest form.

##### **Finding**

An up to date list of Members was obtained containing all 64 members. It was found that all of the Members had returned a Declaration of Interest form which can be found in the Members Declaration of Interest form file. There is also a list of Members on the front of the file confirming which members have returned the form.

It was found that 4 forms had not been dated or were dated incorrectly.

#### **3.2 - Hospitality - Hospitality and Gifts**

##### **Objective**

Appropriate declarations of hospitality are made.

##### **Finding**

Seven forms have been completed since 2012. All forms have been fully completed and all offers have been noted as accepted. These forms are kept on file with the Head of Legal Services.

### **3.3 - Procedure - Members Declaration**

#### **Objective**

Procedures are in place to obtain Members Declarations of Interest.

#### **Finding**

The Head of Legal Services explained that when Members have been appointed following a Local Government Election, a Declaration of Interest form is sent to each Member. Once a Member has been elected, the Member will need to sign a Declaration of Office, during this process officer's explain to the members the need to complete and return a Declaration of Interest, what type of things should be declared and usually Members interests are declared at this stage.

Although Members are required to complete a new Declaration of Interest form following an election, a member can also submit a new form at any time should they need to declare anything else. The Members are made fully aware that this is their responsibility.

### **3.4 - Missing Declarations - Members Declaration**

#### **Objective**

Procedures are in place to follow up missing Declaration of Interest forms.

#### **Finding**

All Members have completed and returned a Declaration of Interest form. The Head of Legal Services explained that when a Member signs their Declaration of Acceptance of Office, the Declaration of Interest is completed at the same time and a list is compiled showing who has completed and returned their form. Until these forms are completed and returned a Member cannot act.

### **3.5 - Council Meetings - Council Meetings**

#### **Objective**

Declarations of Interest are asked for in Council meetings.

#### **Finding**

A sample of ten Council meetings held during the period 01/06/2012 to 30/06/2013 were selected. Each of the ten meetings included the Declaration of Interest as an item on the Agenda. A file was also viewed detailing any verbal declarations that are made during a meeting relating to a particular item(s) on the Agenda. These are noted and signed by the Member making the declaration.

#### **4. Acknowledgements**

I am grateful to the Secretarial support staff and to the Head of Legal and Democratic Services for their co-operation throughout the audit.

#### **5. Client Satisfaction Survey**

In order to provide continuous improvement to the audit service, enclosed is a client satisfaction survey, which we invite you to complete and return, under confidential cover, to the Director of Finance and Corporate Services within 14 days.

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Andrew Evans  
Audit Manager

**8<sup>th</sup> August 2013**

Dist:

1. Head of Legal Services
2. Director of Finance and Corporate Services
3. Head of Financial Services
4. Wales Audit Office