



Adjudication Panel for Wales Annual Report

Year 2023 – 2024

PDC / APW

PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

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Foreword

This is my ninth and final report as President of the Adjudication Panel for Wales (“APW”). The report covers the period 1 April 2023 – 31 March 2024.

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.

I am conscious that my opening words to the foreword in the last annual report promised that it would be my last report; there is many a slip ‘twixt cup and lip as the proverb puts it. Or in other words, things do not always go as planned and my retirement as President was one of those things. I am delighted to welcome my successor, Judge Meleri Tudur, to the Panel. It is a time of great change for justice in Wales and I have no doubt that Judge Tudur will lead the Panel successfully through its next phase with effect from 1 July 2024.

This past year has been busy for the APW; there is no underlying theme to be drawn from the cases we have considered this year. However, it is important to recognise that a tiny minority of councillors find themselves dealing with the APW. Out of 1254 councillors, slightly over 0.5% ended up having their cases considered by the APW. More were dealt with at a local level, either through local resolution or by standards committees. By any measure, this demonstrates that the overwhelming majority of councillors comply with the Code of Conduct or if there is a breach, it is minor and easily rectified. I thank all of those involved in standards work, including the often unsung monitoring officers and clerks to the council, and One Voice Wales who assist in training councillors on the Code of Conduct, for their time and effort helping members understand their duties.

It has been noted that more councillors are failing to respond to references by the Ombudsman to the Panel. By failing to respond, councillors are effectively not disputing the reference, which is more likely to result in a decision made on paper. As the process is adversarial, if councillors choose not to take part, there is no-one to cross-examine witnesses and no hearing to observe, though it is open to the Panel to hold a hearing anyway in order for its members to ask questions or hear oral submissions. The principle of open justice is met in such circumstances by the publication of the full decision report, setting out the reasons for the decision and the evidence relied upon. The unanswered question is why councillors are choosing not to respond; is it because they have resigned and erroneously believe that will end the process? Or because they accept the Ombudsman’s report? Or for some other reason? This may be an area for future exploration by the Standards Forum, Public Services Ombudsman for Wales or indeed the Panel itself.

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.

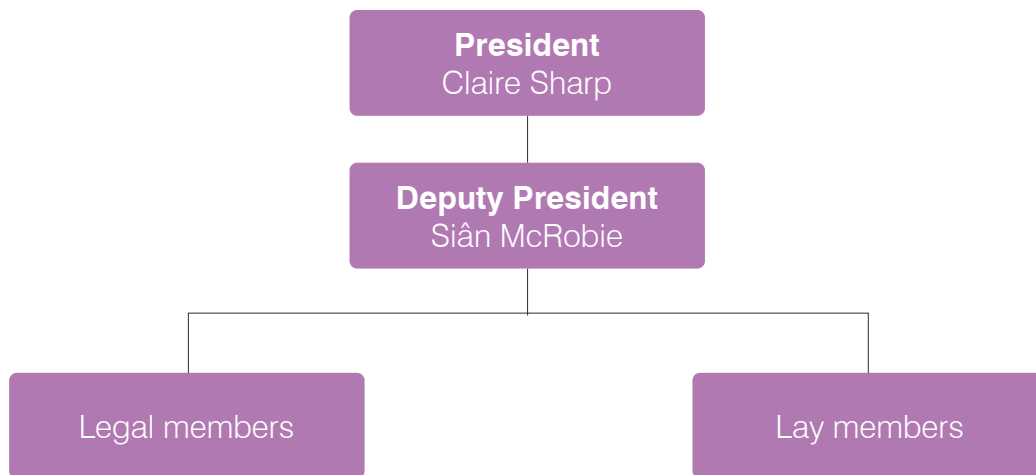
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

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 6.

Members of the APW

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

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



Appointments

During this period, we have appointed 2 new legal members, who are due to be appointed President and Deputy President in the following financial year.

Contacting the APW

To contact the APW Administration:

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

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

Accessing the APW

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

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

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

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

Section 2 – Performance and Progress

In this section:

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

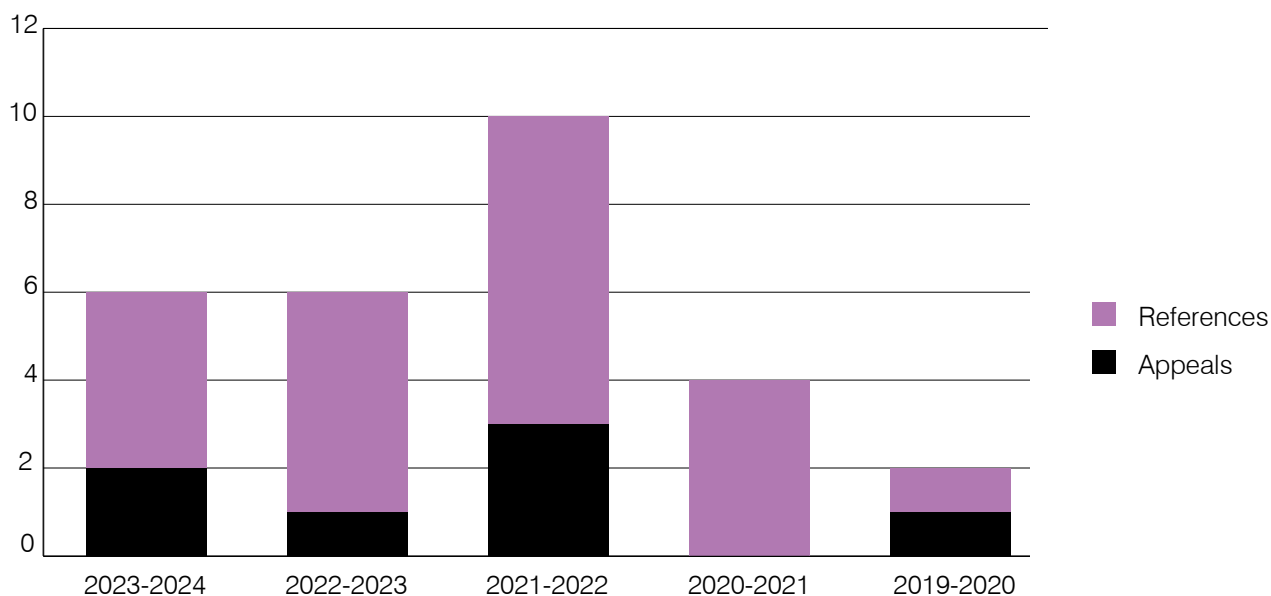
Numbers and Statistics

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

The following statistics are collated:

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

Graph 2.1: Number of references and appeals received by year April 2019 – March 2024



Graph 2.2: Number of references and appeals decided by year April 1919 – March 2024

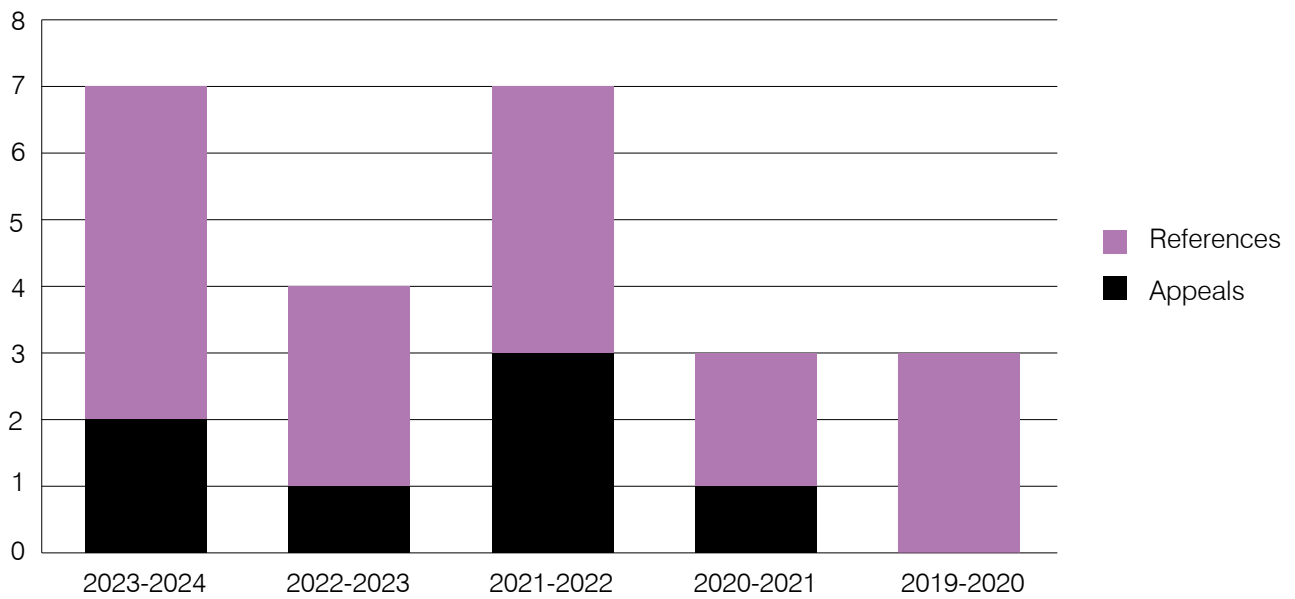
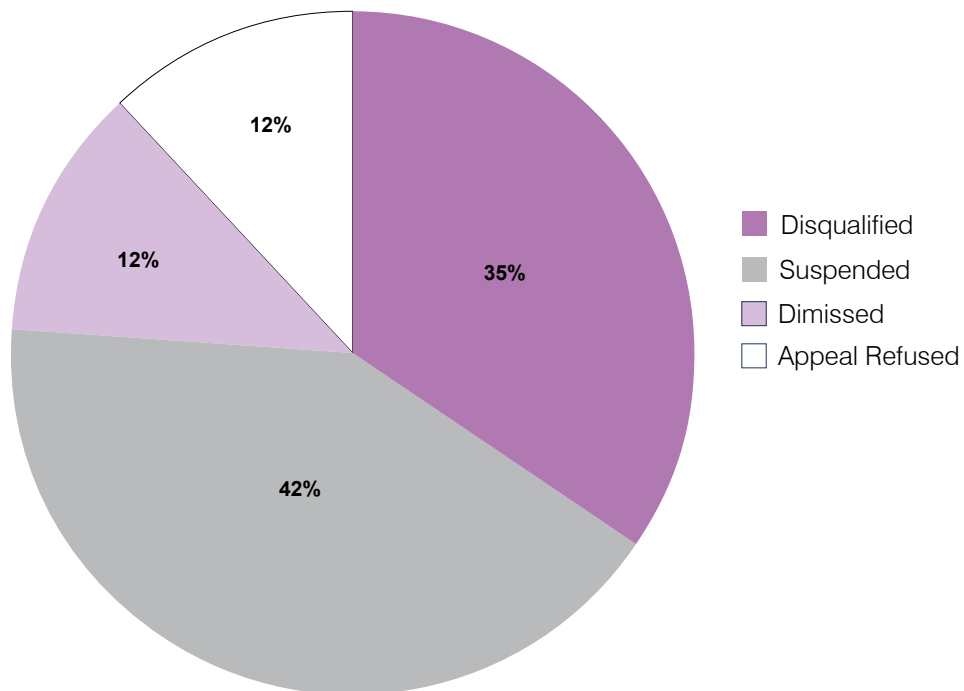
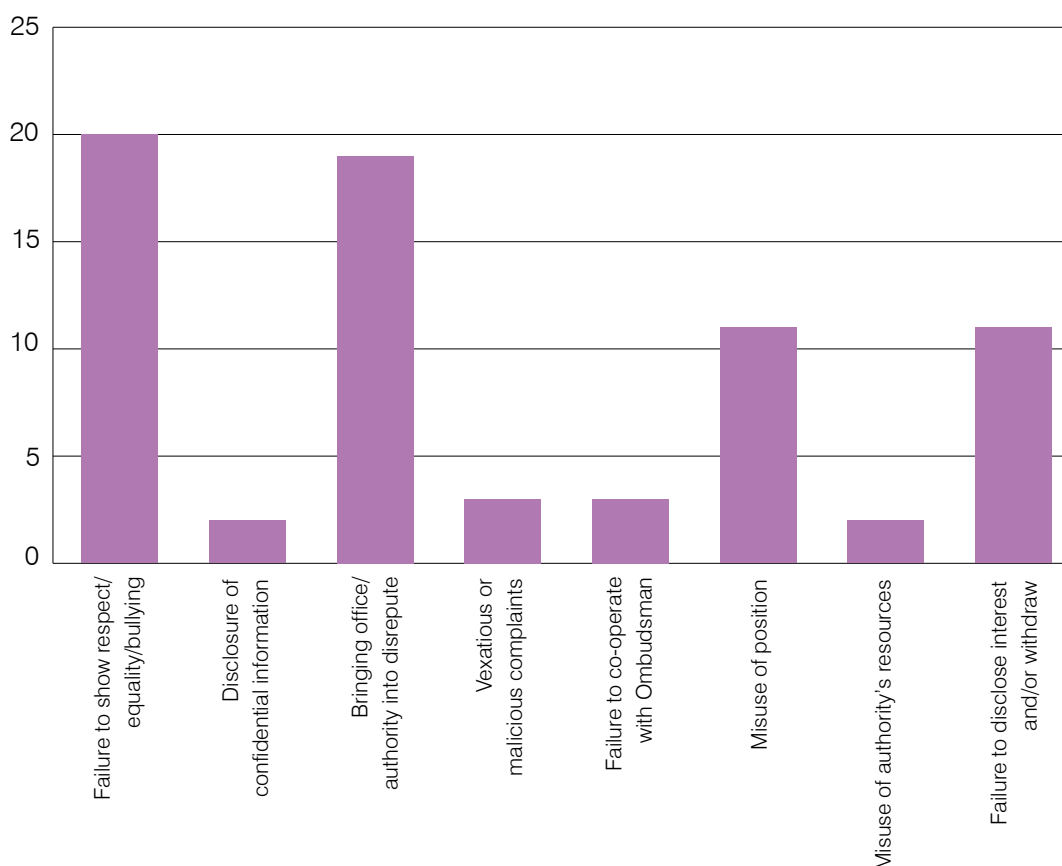


Chart 2.3: Outcomes of references and appeals April 2019 – March 2024

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 2019 – March 2024



Hearings data

During 2023-2024:

Type	Length (in days)
Reference	5 hearing days
Appeal	1 hearing day

0 listing conferences took place in relation to these cases.

Onward appeals

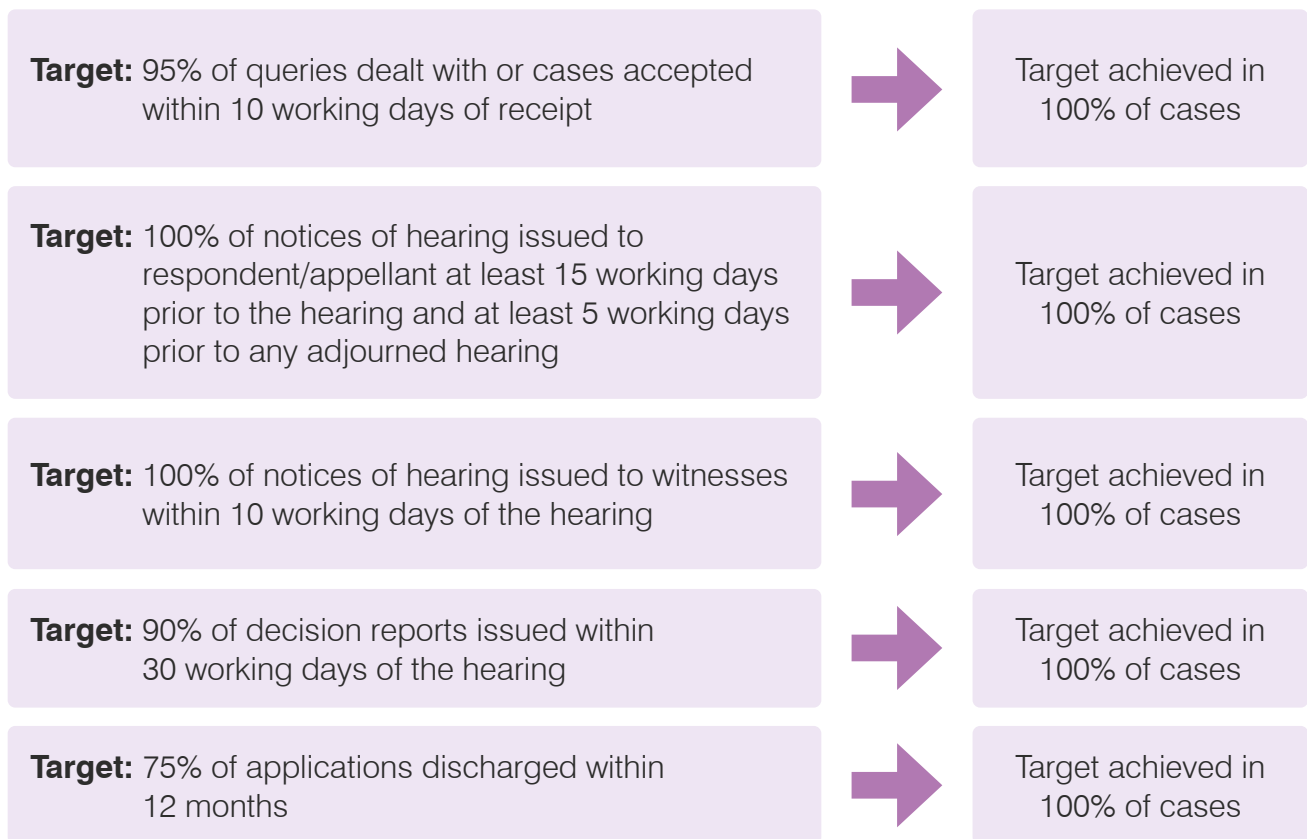
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

Achievement against key performance indicators

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

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

Speed of our service 2023-2024



Complaints

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

Section 3 – Case summaries

In this section:

- References
- Interim Matters
- Appeals

References

[APW/015/2022-023/CT](#)
[Newport City Council](#)

The allegations were that the former councillor had conducted himself in a matter which could reasonably be regarded as bringing his office or the relevant authority into disrepute. The former councillor had been convicted of the criminal offence of soliciting (having pleaded guilty), and significant publicity had surrounded the conviction.

The case tribunal unanimously found that the former councillor had breached paragraph 6(1) (a) of the Code of Conduct; while the conviction arose from behaviour in his private capacity, the former councillor had failed to promote confidence in the role of councillor or the work of the relevant authority in preventing such activities. The Tribunal found that the former councillor's behaviour had brought both his office and the authority into disrepute. The case tribunal did not find additional breaches of paragraph 6(1)(a) by the councillor's failure to inform the relevant authority of his intention to plead guilty or his failure to resign immediately.

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

[APW/001/2023-024/CT](#)
[St Harmon Community Council](#)

The allegations were that the former councillor had conducted himself in a matter which could reasonably be regarded as bringing his office or the relevant authority into disrepute. It was also alleged that he had also acted in such a way as to create an advantage for himself or avoid a disadvantage for himself.

Audit Wales had submitted a report on the relevant authority, in which it criticised both the council and individuals, including the former councillor who was the chair. Audit Wales found that the former councillor had attempted to mislead it to cover up poor governance at the council and reduce the likely criticism of his own conduct. This was done in connection with the expenditure of council money; the former councillor was found to have failed to explain how a document incorrectly purported to be the original tender notice was provided to Audit Wales. The tribunal did not find that the former councillor had created the notice, but did find that he gave wholly different accounts about what had happened and had attempted to mislead Audit Wales. The Tribunal also found that the former councillor had misled Audit Wales about whether a document had been approved by the Council after it had been amended.

The case tribunal unanimously found that the former councillor's efforts to mislead Audit Wales brought both his office and the relevant authority into disrepute, and that he had done so in order to benefit himself and present a more positive picture of the council's governance and accounting practices. The tribunal found that the conduct was deliberate and was both a breach of paragraphs 6(1)(a) and 7(a) of the Code of Conduct. The case tribunal unanimously concluded that the former councillor should be disqualified for 15 months from being or becoming a member of a relevant authority.

APW/013/2022-023/CT
Powys County Council

The allegations were that the former councillor had breached several paragraphs of the Code of Conduct through sustained misconduct.

The former councillor had sent a large volume of emails to various members and officers within the relevant authority on a number of issues, making allegations of corruption and other complaints. As a result, the council provided the former councillor with a detailed written response (finding that the complaints were without merit) and asked her not to repeat such allegations without evidence to support them. The former councillor was directed to the Public Services Ombudsman for Wales and asked not to contact anyone below the level of Head of Service in the council to manage her correspondence.

The former councillor ignored the advice, and continued to send large numbers of emails to a variety of members and officers, making similar complaints, and demanding answers on the same day as sending her emails. The council gave the former councillor a single point of contact to deal with her correspondence and reminded that her behaviour could be viewed as harassment. The former councillor was told that substantial time and resources were being incurred by the council dealing with her repeated complaints and her behaviour was seen as intimidating. The former councillor continued making complaints and demanding responses, while refusing to accept the answers given.

The former councillor at a full Council meeting publicly made derogatory comments about the council and officers, and specifically named one, saying that he was not worth what he was paid and that he had bullied her. In addition, the former councillor was found to have disclosed confidential information provided to her as a councillor to third parties and other members on at least three occasions.

The case tribunal unanimously found that the former councillor had breached paragraphs 4(b), 4(c), 5(a), 6(1)(a), 6(1)(d), 7(b)(i) and 7(b)(iv) of the Code of Conduct. It unanimously concluded that the former councillor should be disqualified for 18 months from being or becoming a member of a relevant authority.

APW/0002/2023-024/CT
Mumbles Community Council

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

The former councillor had abused two individuals on a public Facebook page. It appeared that there was a link to her role as a councillor from the wording of the exchange, and the exchange was later deleted. The former councillor also resigned from her role as councillor a few hours after the posts on Facebook. The language used by the former councillor was gratuitously offensive and abusive towards the individuals.

The case tribunal found that the former councillor had not intended to give the impression that she was acting in the role of councillor when abusing the two individuals, and she had acted in her personal capacity. It concluded that the exchange largely related to historical and personal animosity between those involved, and while the language could not be condoned in any circumstances, it did not bring the office of councillor or the relevant authority into dispute. This finding was because due to the nature of the exchange, a reasonable reader would conclude that a particularly unpleasant private dispute was being aired in public. It was a single incident followed by a swift resignation and with no press attention.

The case tribunal unanimously found that there had been no breach of paragraph 6(1)(a) of the Code of Conduct.

Interim matters

In addition, the Panel dealt with an interim case tribunal. Details are not provided within this report as a full case tribunal will be dealing with the case in the coming financial year.

Appeals

APW/003/2023-024/AT Mumbles Community Council

An appeal was received against the determination of the standards committee that the former councillor had breached the Code of Conduct. The grounds of appeal were limited to whether the facts as found at the standards committee meeting established on the balance of probabilities that the former councillor had made frivolous, malicious and vexatious complaints, whether the findings as a whole showed that the former councillor had breached paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct, and if a breach of the Code of Conduct was found, whether the sanction of censure was endorsed.

The appeal tribunal unanimously found that the facts found by the standards committee did establish that the facts found at the standards committee meeting established that the former councillor had made frivolous, malicious and vexatious complaints. The complaints were found to be complaints about council decisions and made without seeking any advice about the Code of Conduct in order to understand that it was not appropriate to complain about council decisions in such a way. The appeal tribunal further found that the remaining complaints had been malicious and vexatious, as well as frivolous, as the former councillor failed to follow the guidance she had received and wasted the Ombudsman's time and resources on complaints that were made without sufficient grounds. The complaints were not made in the public interest. The appeal tribunal also noted that the former councillor was willing to breach confidentiality knowingly and flagrantly.

The appeal tribunal unanimously found that the former councillor had breached both paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct, and endorsed the censure imposed by the standards committee. It added that it was concerned that the former councillor had repeatedly mentioned her appointment as a current Justice of the Peace but had behaved in a way found to be inappropriate for someone holding a judicial office.

APW/005/2023-024/AT

One application for permission to appeal was refused by the President on the basis that it had no reasonable prospect of success.

Section 4 – Business Priorities

In this section:

- Business priorities for 2024-2025

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 2024-2025

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

Section 5 – Expenditure

In this section:

- Expenditure for 2023-2024

Expenditure for 2023-2024

Content	Amount
Members Fees and Expenses (proceedings and training)	£33,593
Tribunal events (hearing and other costs)	£270
Total	£33,863

Rounded to the nearest £1