



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

10th October 2023

Matter for Decision

Wards Affected: All Wards

Purpose of the Report:

1. The purpose of this report is to provide the Standards Committee with information about the role of the Adjudication Panel in order to assist the Standards Committee to maintain high standards of conduct by the Members and co-opted Members of the Authority and to understand the procedure when a breach of the Code of Conduct occurs and the Adjudication Panel becomes involved.

Background:

2. The Adjudication Panel for Wales (APW) was established by the Local Government Act 2000. The APW is an independent judicial body with powers to form tribunals (hearings held by a specialist panel) to deal with alleged serious breaches against an authority's statutory Code of Conduct by elected and co-

opted members of county, county borough and community councils as well as other Welsh public authorities.

3. APW tribunal cases are received through two routes:
 - An investigation is undertaken by the Public Services Ombudsman for Wales (PSOW) and then referred to the APW
 - Appeals from local councillors against the decision of their relevant authority's Standards Committee.

The Tribunal Process

4. There are two types of tribunals that are heard by the APW, case tribunals and appeal tribunals.
5. Case tribunals are responsible for deciding whether a local member has breached the Code of Conduct of their authority and if so for determining an appropriate sanction.
6. Appeal tribunals review the decision of the relevant Standards Committee that a councillor has breached the Code of Conduct and any sanction imposed.
7. Tribunals usually have three members of the Adjudication Panel hearing the case. The tribunal will be chaired by one of the legal members of the Panel who is known as the Chairperson. At the beginning of a Tribunal hearing, the Chairperson will explain the order of the proceedings that the tribunal will adopt. The tribunal will, as far as possible, try to avoid formality in its proceedings.
8. The person who is the subject of the complaint will be entitled to give evidence, call witnesses, question any witnesses and address the tribunal.

9. After considering any written and oral submissions, the tribunal will reach a view as to whether the councillor failed to follow the provisions of the code of conduct and make a decision about sanctions.
10. In cases referred direct by the Ombudsman, there is a range of sanctions available to the tribunal. The sanctions available to a case tribunal that has found a breach of the Code are:
 - to take no action in respect of the breach;
 - to suspend or partially suspend the member from the authority concerned for up to 12 months;
 - to disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.
11. In appeal cases, the tribunal will decide whether to uphold or overturn the determination of a Standards Committee by either approving the sanction imposed or referring the matter back to the Committee. They can also censure or suspend a member from the authority concerned for up to six (6) months.
12. In certain circumstances in cases referred directly to the Adjudication Panel by the Ombudsman, the councillor who is the subject of the complaint may seek the permission of the High Court to appeal against a decision.
13. There is no right of appeal against the decision of a tribunal formed to consider an appeal against the decision of a Standards Committee, but as a public body, the Adjudication Panel and its tribunals may be subject to judicial review where appropriate.

Role of the Monitoring Officer

14. The Monitoring Officer plays an important role in the APW tribunal process.
15. The Monitoring Officer of the relevant local authority will be present at tribunal proceedings to assist and inform the tribunal and will provide any relevant information to the tribunal prior to the hearing. The tribunal hearing is an opportunity for the Monitoring Officer to clarify any procedural points regarding the business of the relevant authority or to provide information to the tribunal in relation to any evidence already before it.
16. The Monitoring Officer may be asked to provide or arrange further training to the relevant 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.
17. The Monitoring Officer's 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.

Tribunal Reform

18. Following a review by the Law Commission of the devolved tribunals, the Welsh Government has started to develop a proposal to reform the devolved tribunals in Wales, including the Adjudication Panel for Wales. The plan is for the Adjudication Panel for Wales to be absorbed into this new tribunal system.
19. However, the proposals are in their consultation phase and so they are prone to change.

Financial Impacts:

20. No implications.

Integrated Impact Assessment:

21. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

22. No implications

Workforce Impacts:

23. No implications

Legal Impacts:

24. There are no legal impacts associated with this report.

Consultation:

25. There is no requirement for external consultation on this item.

Recommendations:

26. That Members note the contents of this report and the role of the Adjudication Panel for Wales.

Appendices:

27. None

List of Background Papers:

28. None

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