

Adjudication Panel for Wales Annual Report

Year 2016 – 2017

PDC / APW

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 second annual report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2016 – 31 March 2017.

We aim to ensure that the Panel serves the interests of all those in Wales falling within our jurisdiction, by dealing with any disputes both efficiently and effectively. Specifically, we make every effort to ensure that all those involved in the dispute ultimately feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We also are conscious that the wider public must have confidence that any breaches of the Code of Conduct by members will be dealt with fairly and in a timely way in order to uphold trust and confidence in local democracy.



As can be seen from the Report, there is no particular theme arising from the wide range of disputes considered by the Panel during the past year. This was the first year where the President had the power to grant applications for appeal arising from decisions from standards committees. The power has been exercised on two occasions; each time saw permission refused to appeal some of the grounds raised on the basis that there was no reasonable prospect of success. This has ensured hearings concentrate on the live issues of the case and used resources more efficiently.

The other point of note from the previous past twelve months is the increased public and press attention faced by the Panel, combined with attacks upon its integrity. As a judicial body, the Panel is unable to comment on individual cases - its decisions are the only method of communication to explain why particular steps were taken. That said, the Panel is independent of both the Welsh Government and National Assembly for Wales, as well as political parties, and it will carry out fair hearings on the basis of the evidence and relevant law. Interested readers may view the information on our website about the Panel and its processes. It is positive more people have heard of our work.

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.

A handwritten signature in blue ink, which appears to read 'C Sharp'.

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).
- 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 secretariat 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.
Legal Members	Legal members are lawyers and have responsibility for conducting proceedings at hearings and advising the Secretariat 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.
Secretariat	The day-to-day administration is largely delegated to the secretariat which deals with all the preliminary paperwork and the processing of applications to the APW. The secretariat consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and passes on any rulings and directions in writing to the parties. The secretariat acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings.



Appointments

No appointments were made during this period, though it was decided to commence the process to appoint a Deputy President to act on behalf of the President should she become unable to perform her duties.

Training

A training seminar was held during June 2017. A regular 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 2017/18 year.

Contacting the APW

To contact the APW Secretariat:

APW Address:	Adjudication Panel for Wales Government Buildings Spa Road East Llandrindod Wells Powys LD1 5HA
APW Helpline:	03000 259805
APW Fax:	03000 259801
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 secretariat.

Section 2 – Performance and Progress

In this section:

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

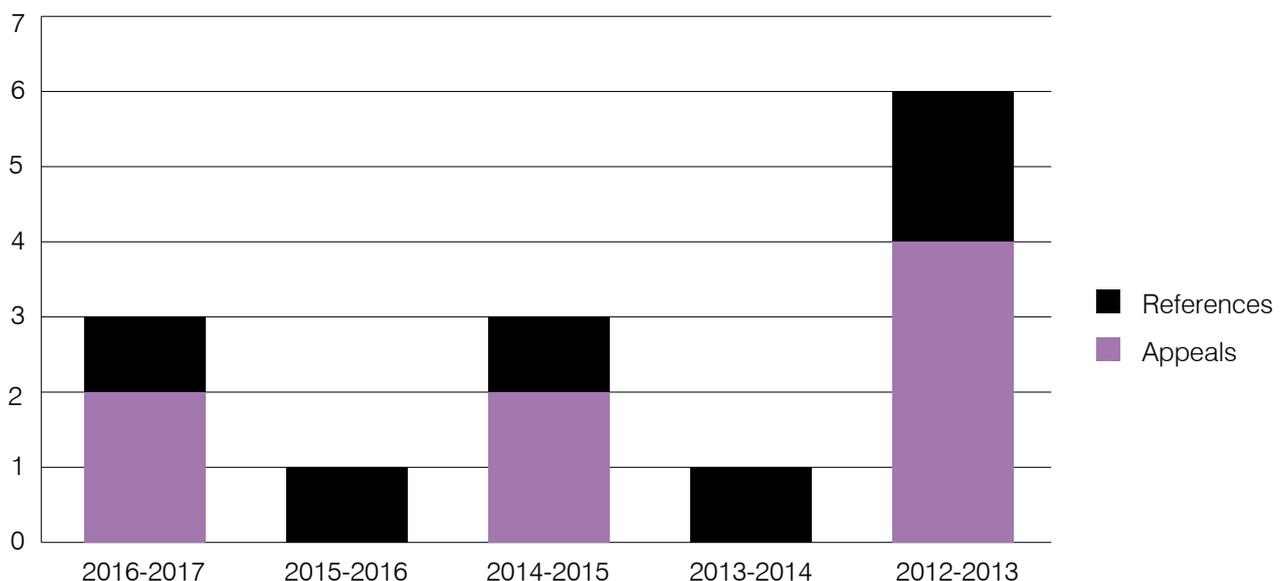
Numbers and Statistics

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.

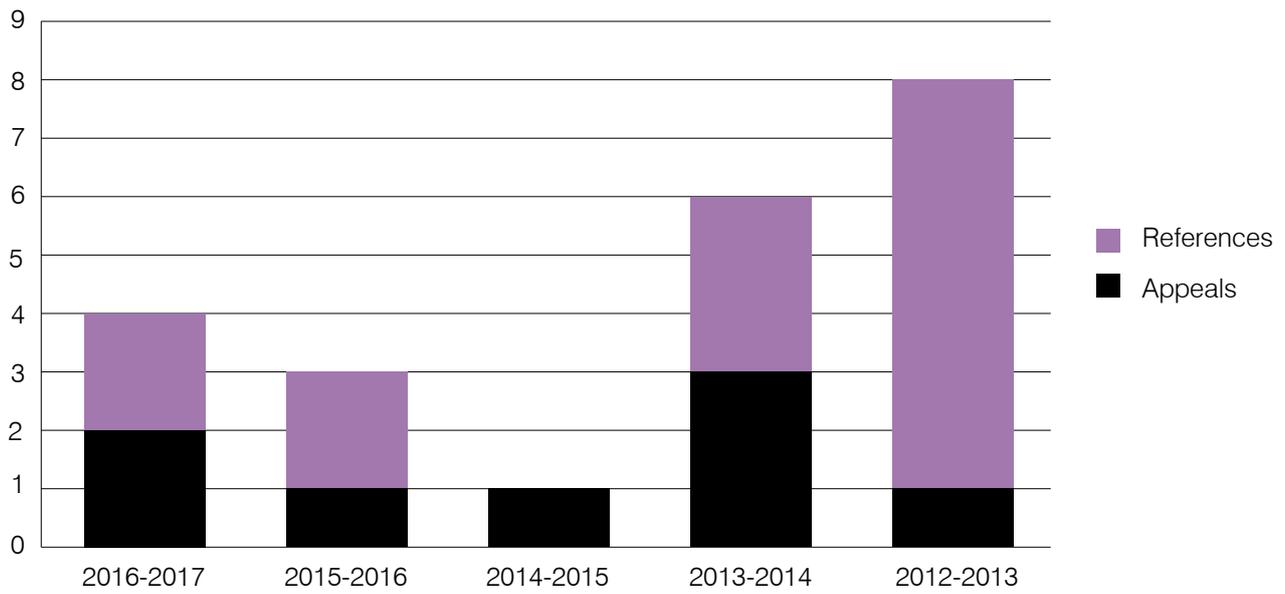
The following statistics are collated:

- 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

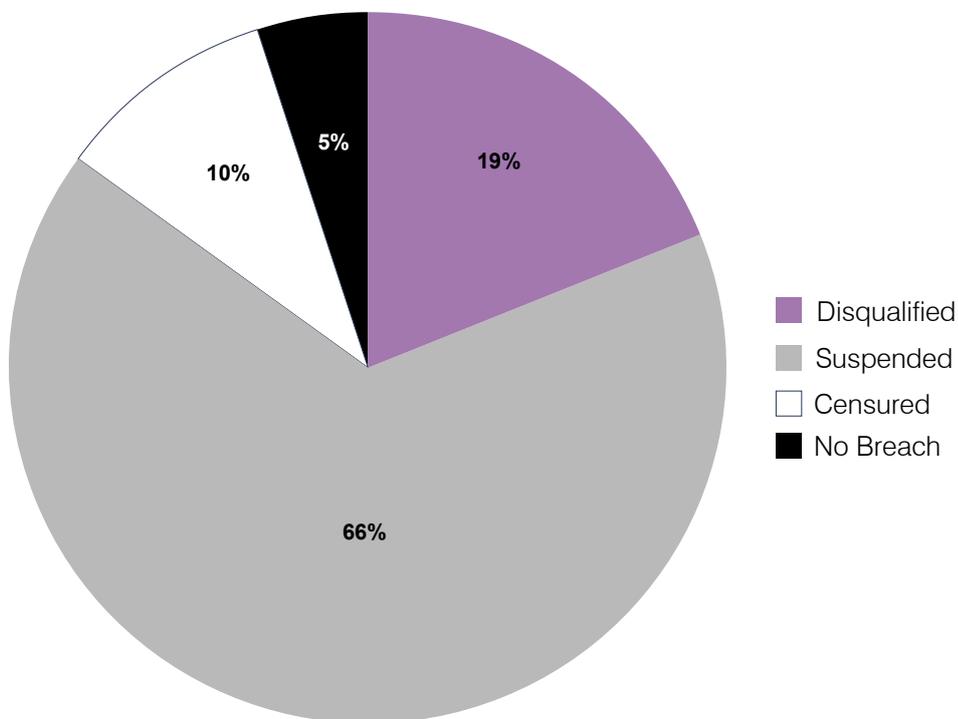


Graph 2.2: Number of references and appeals decided by year April 2012-March 2017

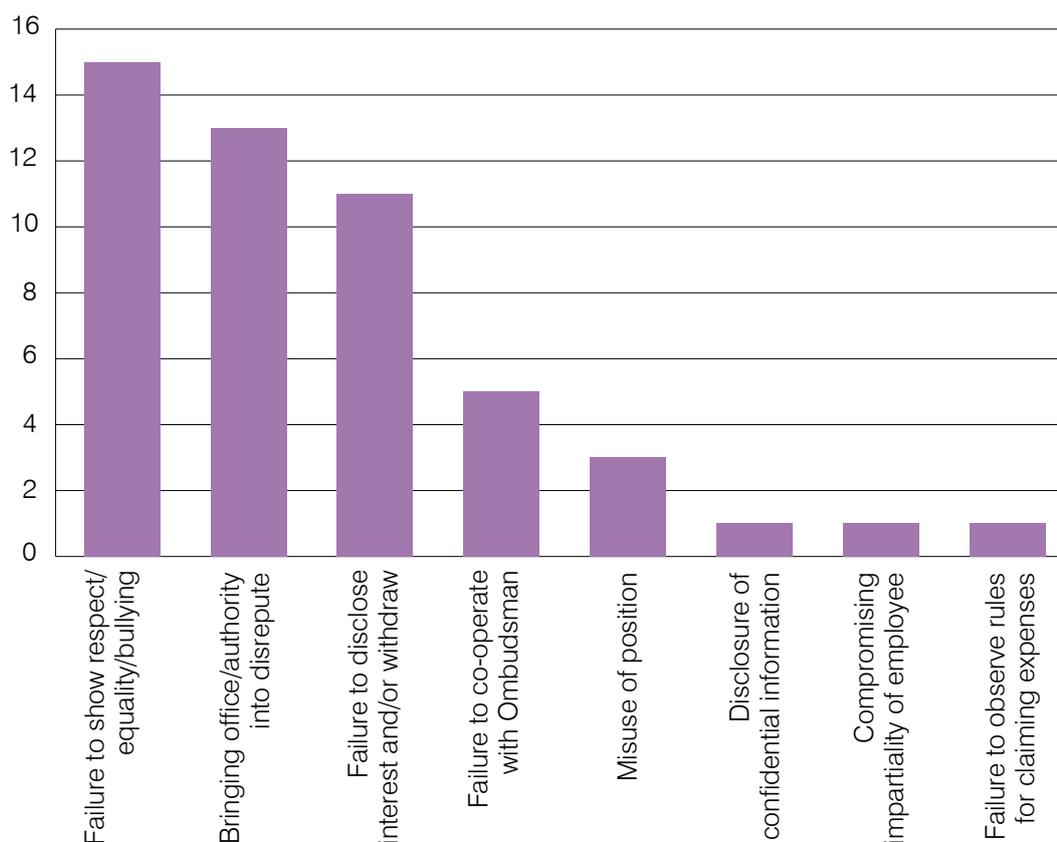


Charts 2.3: Outcomes of references and appeals April 2012-March 2017

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



Graph 2.4: Percentage of breaches by type April 2012-March 2017



Hearings data

During 2016 – 2017, 2 referrals from the PSOW and 2 appeals against the determination of standard committees proceeded to hearing, resulting in a total of 6 hearing days:

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

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

Onward appeals

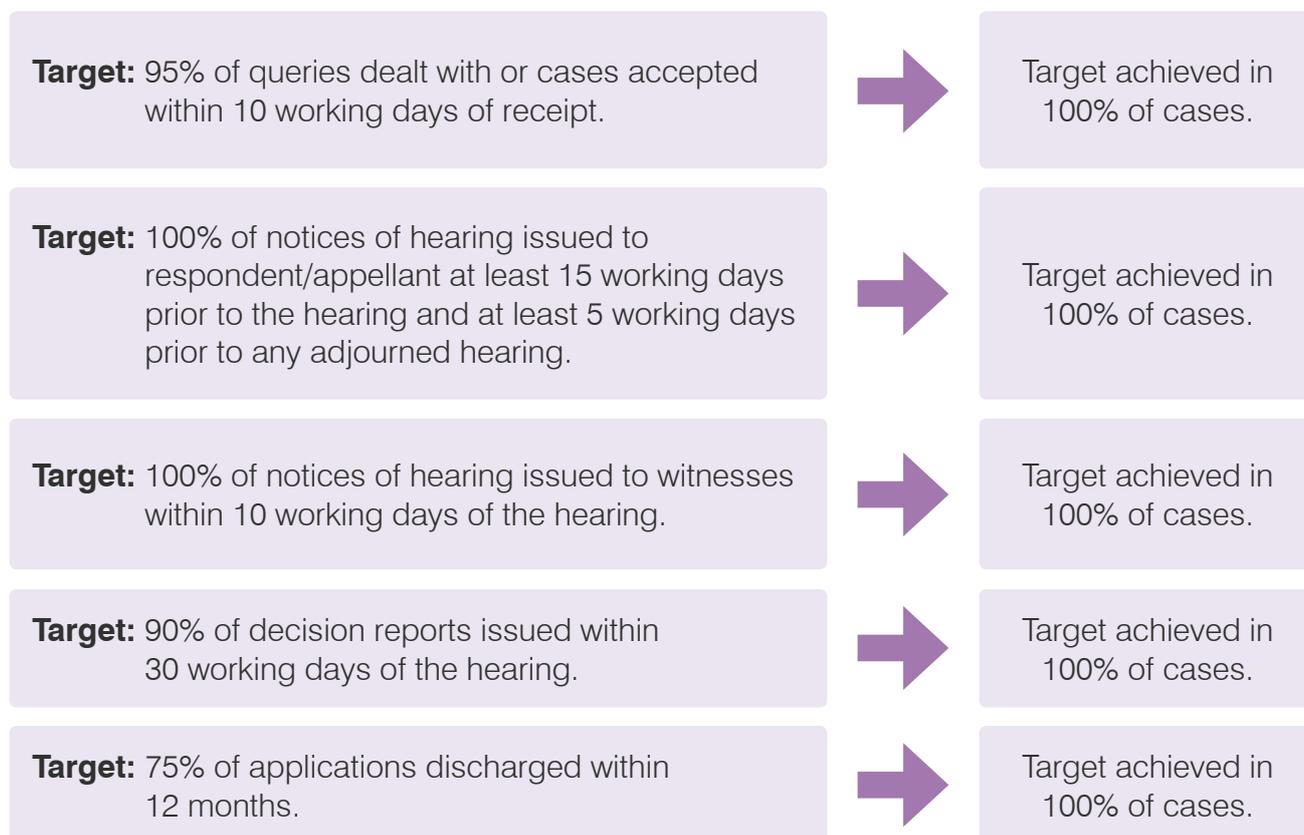
Applications for permission to appeal a decision of a Case Tribunal of Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, 1 application for permission was made, but later withdrawn in the following financial year.

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). To measure customer satisfaction, we use an indicator that is derived from feedback forms that are issued when a case is complete (see section 4).

Speed of our service 2014-2016



Complaints

The APW received 1 formal complaint during the reporting period from a member of the public which was resolved.

Section 3: Case summaries

In this section:

- References
- Appeals

References

During the reporting period 2 case tribunal hearings took place resulting from references from the Ombudsman. Summaries of the cases determined by the APW appear below.

APW/002/2015-016/CT

Vale of Glamorgan Council and Barry Town Council

The allegations were that the councillor had breached the Code of Conduct of the Vale of Glamorgan Council and Barry Town Council by bringing the office of councillor or the authority into disrepute by his actions.

The incident arose when the councillor acting in his personal capacity touched the leg of a female with whom he was bird-watching in a bird hide on Skomer Island. He was convicted on 27 May 2015 of common assault.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the Vale of Glamorgan Council and Barry Town 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)).

The Case Tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of the Vale of Glamorgan Council and Barry Town Council for a period of 3 months.

APW/002/2016-017/CT

Cardiff Council

The allegations were that the councillor had breached the Code of Conduct of Cardiff Council by saying words to a council official following a contentious court hearing. The Ombudsman's position was that the councillor had bullied the official, failed to show respect and brought the office or authority into disrepute due to his actions.

The incident arose while the councillor attended court to assist his constituent as part of his duties as a councillor.

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

- You must show respect and consideration for others (paragraph 4 (b)).
- You must not use bullying behaviour or harass any person (paragraph 4 (c)).

The Case Tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of Cardiff Council for a period of 1 month.

Appeals

During the reporting period 2 appeal tribunal hearings took place resulting from appeals by members of decisions by Local Authority Standards Committees. Summaries of the cases determined by the APW appear below.

APW/001/2016-017/AT

Manorbier Community Council

An appeal was received against the determination of the standards committee that the councillor had breached the Manorbier Community Council's Code of Conduct and should be suspended from office for 2 months and was required to undergo training.

The standards committee had found that the councillor had breached the following paragraphs of the Code of Conduct by failing to declare a prejudicial interest in a planning application on which she spoke and voted during a community council meeting on 5 January 2015:

- Where you have a prejudicial interest in any business of your authority, you must, unless you have obtained a dispensation from your authority's Standards Committee, withdraw from the room, chamber or place where a meeting is considering the business is being held (paragraph 14(1)(a)).
- Where you have a prejudicial interest in any business of your authority, you must, unless you have obtained a dispensation from your authority's Standards Committee, you must not seek to influence a decision about that business (paragraph 14(1)(c)).
- Where you have a prejudicial interest in any business of your authority, you must, unless you have obtained a dispensation from your authority's Standards Committee, you must not make any oral representations in respect of that business (paragraph 14(1)(e)).

The councillor applied for permission to appeal to the President. The appeal was permitted to proceed on the basis that the standards committee was incorrect in holding that she had a prejudicial interest in the planning application and the sanction imposed was too severe.

The Appeal Tribunal found by unanimous decision that the councillor did have a prejudicial interest and had breached the Code of Conduct. It referred the matter back to the standards committee with a recommendation that the councillor should be suspended from office for 3 months.

An appeal was received against the determination of the standards committee that the councillor had breached Powys Council's Code of Conduct and should be suspended from office for 5 months.

The standards committee had found that the councillor had breached the following paragraphs of the Code of Conduct by sending a letter to a former employee incorrectly and unfairly portraying the proceedings of a grievance appeal hearing:

- 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)).

The councillor applied for permission to appeal to the President. The appeal was permitted to proceed on the basis that the standards committee was incorrect to find the councillor had breached the Code of Conduct and the sanction imposed was too severe.

The Appeal Tribunal found by unanimous decision that the councillor had incorrectly and unfairly portrayed the proceedings of a grievance appeal hearing and had breached the Code of Conduct. It referred the matter back to the standards committee with a recommendation that the councillor should be suspended from office for 3 months.

Section 4 – Our Customers

In this section:

- Customer satisfaction survey

Customer satisfaction survey

The APW strives to improve customer service delivery and its aim is to put our customers at the heart of everything we do.

During 2016-2017 the APW distributed a customer satisfaction survey on case completion. The feedback from the survey enables us to gain a better understanding of our customers' needs and gives a valuable insight into what the APW is doing well, as well as highlighting those areas where the APW needs to improve.

We received 2 completed forms during 2016-2017. Of those:

- 100% of completed responses said the APW was prompt to respond
- 100% of completed responses said the APW was polite and helpful
- 100% of completed responses said they were satisfied with the information they received
- 100% of completed responses said they were able to understand the process
- 100% of completed responses said they found the information in the guidance forms useful
- 100% of completed responses said we processed the case efficiently.

Section 5 – Business Priorities

In this section:

- Business priorities for 2017-2018

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 2017-2018

- To address the requirement for new legal members to the APW with a view to increasing the diversity of its membership.
- To appoint a Deputy President to the APW.
- Plan and deliver an all-members training event.
- Implement a new appraisal system for all members.
- Continue to monitor and update the APW website to include non-written forms of communication.
- Deliver an effective and efficient service, meeting key performance indicators and responding to feedback on customer satisfaction surveys.

Section 6 – Expenditure

In this section:

- Expenditure for 2016-2017

Expenditure for 2016-2017

Content	Amount
Members Fees and Expenses for tribunal proceedings*	£32,000
Tribunal events (hearing costs)	£6,000
Total	£38,000

* rounded to the nearest £1,000