

Meeting of:	Standards Committee
Date of Meeting:	Thursday, 11 July 2019
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
Report Title:	Adjudication Panel for Wales Annual Report 2017-18
Purpose of Report:	To apprise Members of the Annual Report of the Adjudication Panel for Wales 2017/18
Report Owner:	Debbie Marles, Monitoring Officer / Head of Legal and Democratic Services
Responsible Officer:	Karen Bowen, Principal Democratic and Scrutiny Services Officer
Elected Member and Officer Consultation:	This is a matter for decision by the Standards Committee
Policy Framework:	This is a matter for the Standards Committee
Executive Summary:	<ul style="list-style-type: none"> To apprise Members of the Adjudication Panel for Wales Annual Report 2017/18 (at Appendix 1) which provides details of the performance and progress for 2017/18.

Recommendation

1. That Members consider the Adjudication Panel for Wales Annual Report 2017/18 attached at Appendix 1 and note its contents.

Reason for Recommendation

1. To apprise Members.

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. Key Issues for Consideration

- 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 2013 to 2018 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 (pages 12 and 13) of the APW Report.
- 2.2 Members are requested to consider the contents of the APW Report.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 The role of the Standards Committee is to promote and maintain high standards of conduct by Councillors, Co-opted Members and Church and Parent Governor Representatives.
- 3.2 The APW is an independent tribunal that has been set up to determine alleged breaches against Authority's Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.

4. Resources and Legal Considerations

Financial

- 4.1** None as a direct result of this report other than Members are remunerated for attendance at meetings under the Allowance Scheme agreed by the Independent Remuneration Panel for Wales and the Vale of Glamorgan Council's Constitution.

Employment

- 4.2** The Council has a statutory duty to establish and maintain a Standards Committee as defined by legislation as set out in the Standards Committee Rules and Regulations 2001 and the Standards Committee (Wales) Amendment Regulations 2006.

Legal (Including Equalities)

- 4.3** The Council has a statutory duty to establish and maintain a Standards Committee as defined by legislation as set out in the Standards Committee Rules and Regulations 2001 and the Standards Committee (Wales) Amendment Regulations 2006.

5. Background Papers



Adjudication Panel for Wales Annual Report

Year 2017 – 2018

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 third annual report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2017-31 March 2018.

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.



The same themes have arisen in the cases heard by the APW over the last year; the bullying and harassment of council officials by elected members and failure to show respect and consideration. This has required APW panels to balance carefully the vital right of representatives in a democracy to express their opinion (particularly when undertaken in a political context) with the rights of others not to be bullied or abused in the workplace. When such comments are linked to perceived or actual disabilities, the APW views such activities as potentially discriminatory and more likely than not to require restriction of the right to freedom of expression. It is to be hoped that members will bear in mind their “quasi employer” status when dealing with council officials, especially if they are junior or disabled.

Also in the past year, I am pleased that the APW has strengthened its leadership team with the creation of the role of Deputy President, and the appointment of Ms Sian Jones to that role.

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), 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

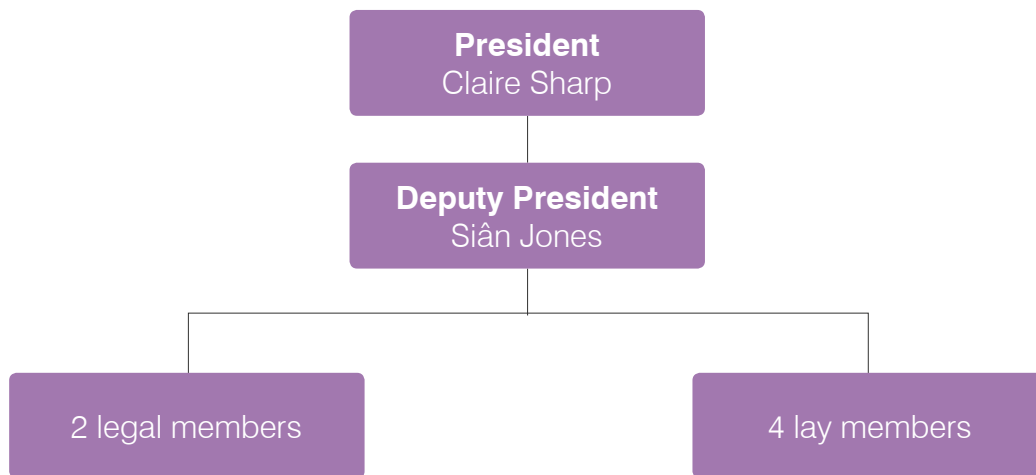
Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the Secretariat on matters of law. Legal members write APW decisions and give directions where necessary.

Lay Members

Lay members have a wide range of knowledge and experience relevant to the work of the APW.

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 Ms Siân Jones as the Deputy President following an independent recruitment process to act on behalf of the President should she become unable to perform her duties, either temporarily or permanently. The Deputy President also takes a leadership role in respect of areas agreed at the outset of each year with the President. During this period, the Deputy President became responsible for communication and outreach.

Training

A training seminar was held during June 2017, with particular emphasis on judgecraft. 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 2018/19 year.

Contacting the APW

To contact the APW Administration:

APW Address: Adjudication Panel for Wales
Government Buildings
Spa Road East
Llandrindod Wells
Powys
LD1 5HA

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

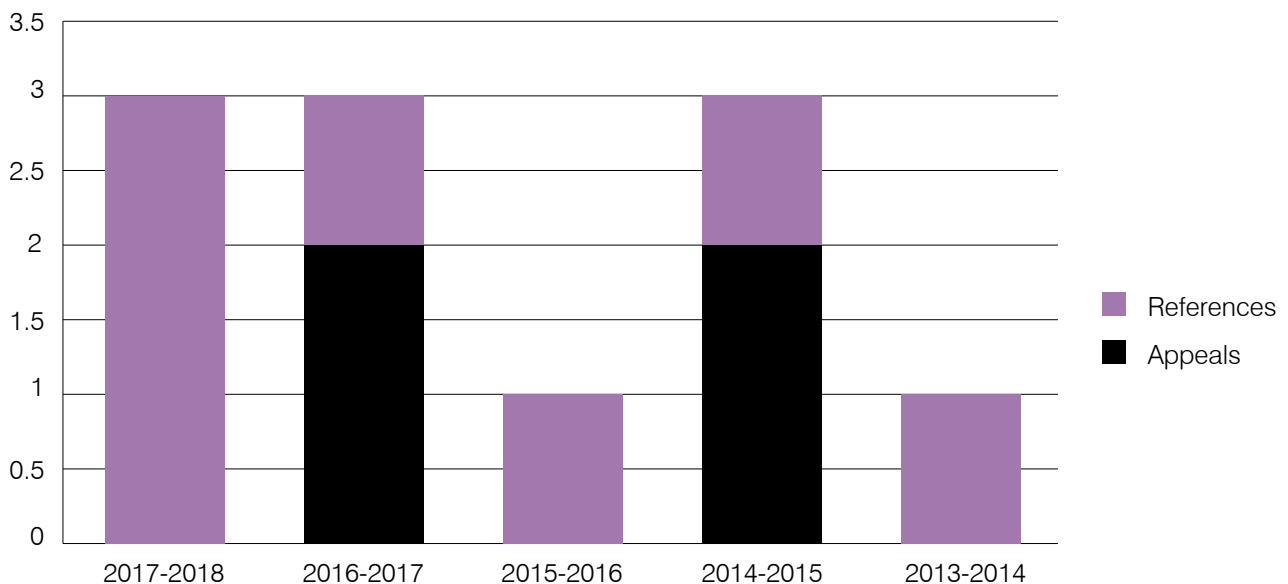
Numbers and Statistics

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.

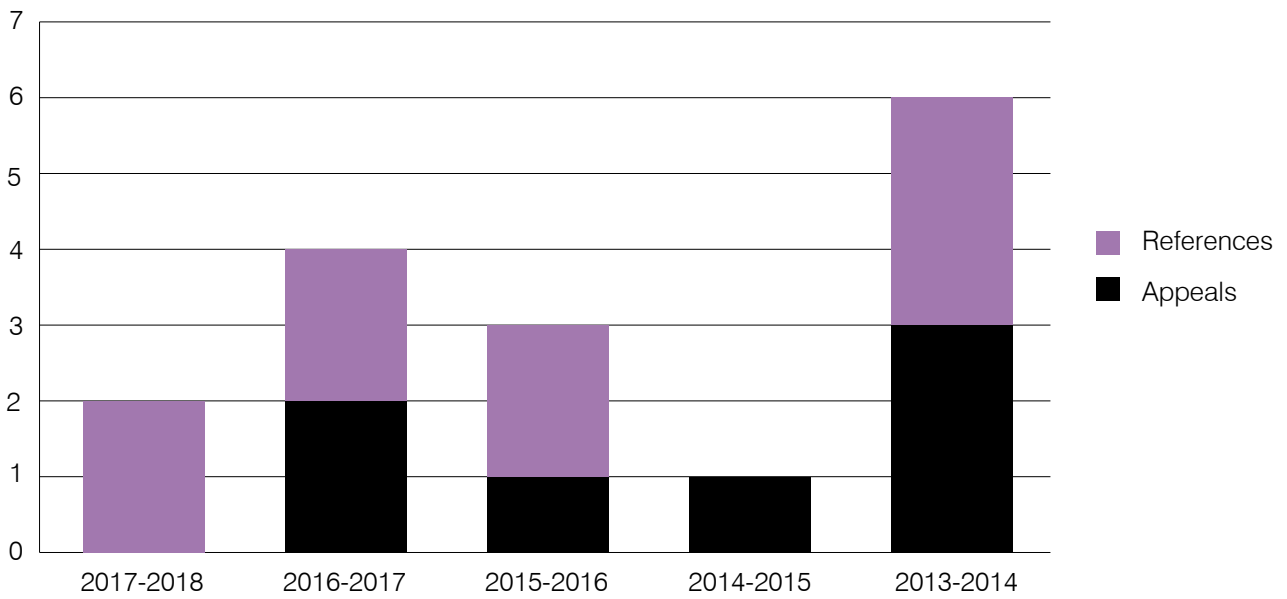
The following statistics are collated:

- 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

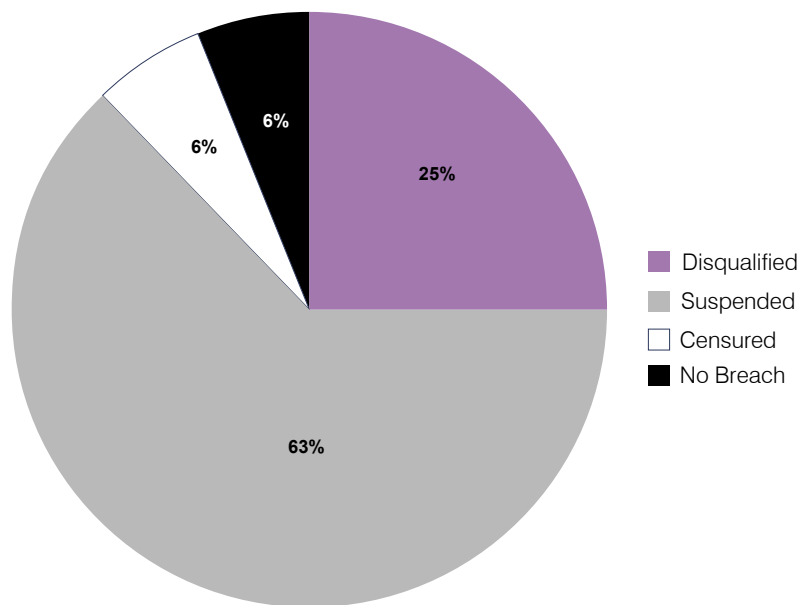


Graph 2.2: Number of references and appeals decided by year April 2013-March 2018

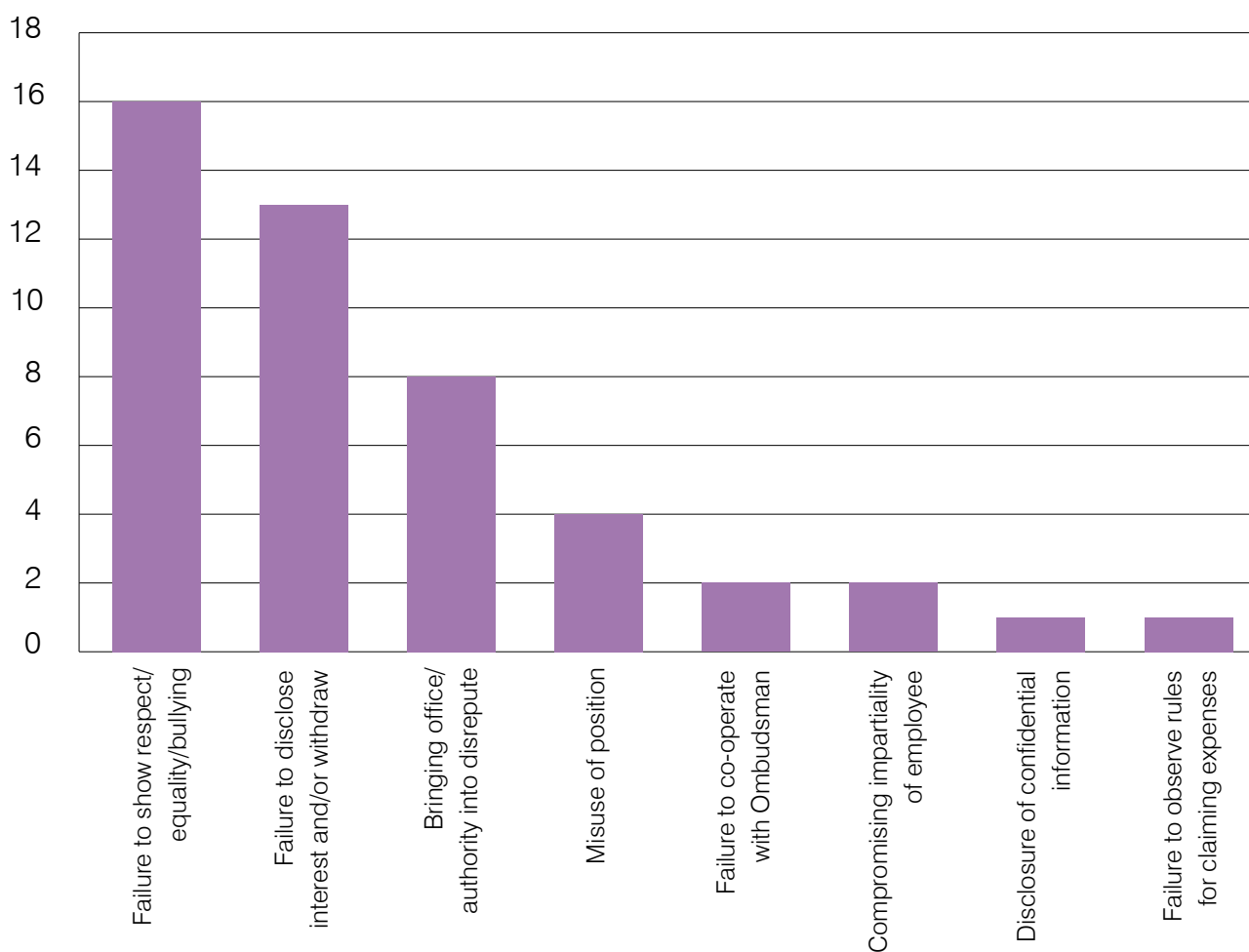


Charts 2.3: Outcomes of references and appeals April 2013-March 2018

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 2013-March 2018



Hearings data

During 2017-2018, 2 referrals from the PSOW proceeded to hearing, resulting in a total of 3 hearing days:

Type	Length (in days)
Reference	3 hearing days
Appeal	0 hearing days

There was also 1 telephone conference which took place in relation to these cases.

Onward appeals

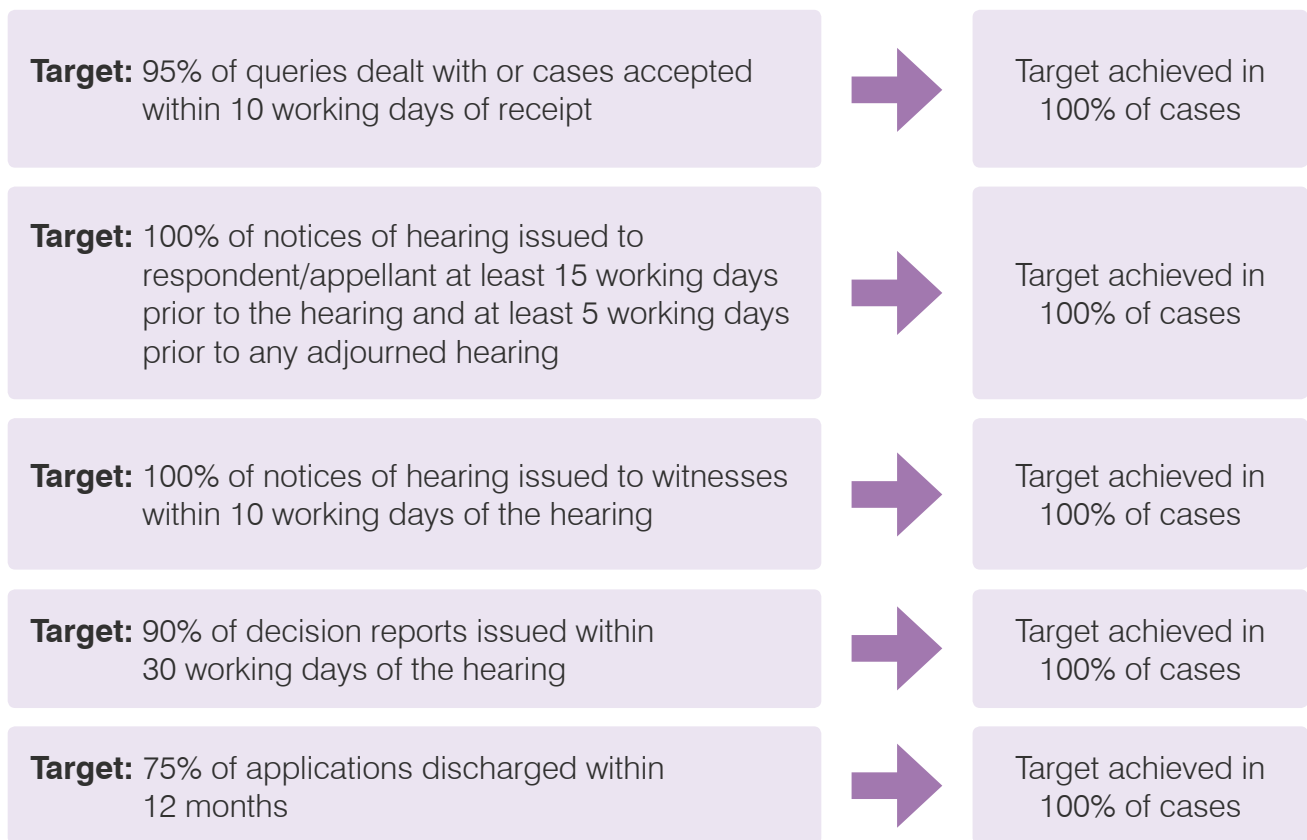
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

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). 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 2017-2018



Complaints

The APW did not receive any formal complaints during the reporting period.

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/001/2017-018/CT Flintshire County Council

The allegations were that the councillor had breached the Code of Conduct of Flintshire County Council by failing to show respect and consideration for others and using bullying and harassing behaviour.

The incident arose out of emails sent by the councillor to a council official whilst raising matters on behalf of her constituents. The councillor expressed her view of a particular council officer, who was not tasked to deal with the issue, in emails to various parties.

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 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 disqualified for 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000. It noted that the councillor had previously appeared before the APW and had committed to following the requirements of the Code of Conduct fully. The Case Tribunal concluded that the councillor had acted recklessly or deliberately, and failed to co-operate with the Ombudsman's investigation.

APW/002/2017-018/CT Conwy County Borough Council

The allegations were that the councillor had breached the Code of Conduct of Conwy County Borough Council by failing to carry out his duties with due regard to the principle that there should be equality of opportunity for all people, failing to show respect and consideration for others, by using bullying and harassing behaviour, by undertaking actions which compromised or which was likely to compromise the impartiality of those who work for or on behalf of the authority, by disclosing confidential information, by conducting himself in a manner which could reasonably be regarded as bringing the office or 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, by seeking to influence a decision in which he had a prejudicial interest, and by making written

representations about a decision in which he had a prejudicial interest.

The incident arose from the removal of a close personal associate of the councillor from his role as a school governor, and the naming of the councillor in the initial letter from the Council informing the individual of the proposal to remove him from his role. This led to the councillor undertaking a course of conduct which saw him make serious allegations about various council officials and employees, disclose confidential information to third parties, make representations on behalf of his close personal associate and improperly pressure a council officer to assist him.

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

- You must carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion (paragraph 4(a)).
- You must show respect and consideration for others (paragraph 4(b)).
- You must not use bullying behaviour or harass any person (paragraph 4(c)).
- You must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority (paragraph 4(d)).
- You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so (paragraph 5(a)).
- 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)).
- 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, 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, not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business (paragraph 14(1)(d)).

The Case Tribunal concluded by unanimous decision that the councillor should be disqualified for 18 months from being or becoming a member of Conwy County Borough Council or of any other relevant authority within the meaning of the Local Government Act 2000.

Appeals

During the reporting period, no appeal tribunal hearings took place.

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 2017-2018 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 1 completed form during 2017-2018, which stated that:

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

Section 5 – Business Priorities

In this section:

- Business priorities for 2018-2019

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 2018-2019

- To address the requirement for new legal members to the APW with a view to increasing the diversity of its membership.
- Plan and deliver an all-members training event and training for new legal members.
- 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 2017-2018

Expenditure for 2017-2018

Content	Amount
Members Fees and Expenses for tribunal proceedings*	£30,000
Tribunal events (hearing costs)*	£6,000
Total	£36,000

* rounded to the nearest £1,000