

Due to the current heightened security level at all our premises, Members are reminded to wear their identity badges whilst attending meetings. Any visitors must produce photographic identification at Reception.

## **FIRE & RESCUE AUTHORITY SUMMONS**

### **SOUTH WALES FIRE & RESCUE AUTHORITY**

You are required to attend a meeting of the Standards Committee to be held on:

**Monday, 30 January 2023 at 1630 hours**

**In person at South Wales Fire & Rescue Service Headquarters,  
Forest View Business Park, Llantrisant, CF72 8LX**

**or**

**Remotely via Microsoft Teams - Access Code:** <https://bit.ly/Standards-Committee-30-01-23>

**Please ensure you join the meeting 15 minutes prior to meeting time**

**Any issues please contact  
01443 232000 and ask for Member Services**

### **A G E N D A**

1. Apologies for Absence
2. Declarations of Interest

Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.

3. Chairperson's Announcements

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Signature of Monitoring Officer:



## MEMBERSHIP

**Councillors:**

Cllr	G	Holmes	Labour
Cllr	S	Melbourne	Conservative
Cllr	A	Roberts	Labour
Mr	R	Alexander	Independent Lay Member
Mr	S	Barnes	Independent Lay Member
Mr	D	Fussell	Independent Lay Member
Dr	M	Kerbey	Independent Lay Member
Ms	K	Thorogood	Independent Lay Member

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## SOUTH WALES FIRE & RESCUE AUTHORITY

### MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON MONDAY 3 OCTOBER 2022 AT SOUTH WALES FIRE & RESCUE SERVICE HEADQUARTERS

#### 115. PRESENT:

Mr S Barnes (Chair)	Independent Lay Member
Mr D Fussell (Left at 1800)	Independent Lay Member
Dr M Kerbey	Independent Lay Member
Ms K Thorogood	Independent Lay Member
Councillor G Holmes	SWF&R Authority
Councillor S Melbourne (Arrived 1650)	SWF&R Authority

#### APOLOGIES:

Mr R Alexander (Chair)	Independent Lay Member
Councillor A Roberts	SWF&R Authority

**OFFICERS PRESENT:** - Temp ACO G Thomas – Temp Monitoring Officer & Director of Corporate Services, Mrs S Watkins – Deputy Monitoring Officer & Head of Corporate Support, Mr D Daycock – Monitoring Officer, Mid & West Wales Fire & Rescue Authority (One item only)

#### WELCOME ADDRESS

Mr S Barnes advised Members of the Standards Committee that he would chair the meeting on behalf of Mr R Alexander and proceeded to extend a warm welcome to new Independent Member, Ms K Thorogood.

Members were also informed that there would be a slight change to the running order of the agenda, with Mr Dave Daycock's training presentation being brought forward to Agenda Item 4.

#### 116. DECLARATIONS OF INTEREST

No declarations of interest were made.

## **117. CHAIRPERSON'S ANNOUNCEMENTS**

The Chair had no announcements to report.

## **118. MEMBERS TRAINING DELIVERED BY DAVE DAYCOCK**

Mr D Daycock, Mid & West Wales FRS Monitoring Officer, provided Members with an online verbal training session on the following key areas:-

- **Part 1 – Members Code of Conduct**
- **Part 2 – Work of the Standards Committee and Members of the Standards Committee**
- **Part 3 – The Ombudsman, The Adjudication Panel of Wales, and the Role of the Monitoring Officer**

Councillor Melbourne arrived at 1650 hrs.

## **RESOLVED THAT**

Members agreed to note the verbal training session, and thanked Mr Daycock for his informative and comprehensive electronic presentation.

Mr Daycock thanked the group for their kind words and withdrew from the meeting.

## **119. MINUTES OF PREVIOUS MEETING**

The minutes of the Standards Committee meeting held on 7 February 2022, were received and accepted as a true record of proceedings.

### **119.1 MATTERS ARISING WITHIN THE MINUTES**

- **Item 108.2** - Relating to breaking down Key Performance Indicators into separate areas, the T/Monitoring Officer informed Members that he had met with the Ombudsman who had confirmed that individual complaints were not broken into separate areas. However, the Monitoring Officer was pleased to report that the Ombudsman had agreed to

attend the next Standards Committee meeting in January to address individual queries.

- **Item 112.2** - Relating to Members claiming for pre-meeting preparation time, the T/Monitoring Officer proposed that Members would be allowed to claim for 2 hours preparation time, but if some reports were deemed to be excessive reading then an extension would be considered at the time.

Following discussion, Members unanimously agreed to accept the proposal of claiming for 2 hours pre-meeting preparation time.

## **120. REPORTS FOR DECISION**

### **120.1 REVIEW OF TERMS OF REFERENCE OF THE STANDARDS COMMITTEE**

The T/Monitoring Officer requested Members to consider and review the current Terms of Reference of the Standards Committee and to agree the Terms of Reference going forward.

Following debate on Item 8 set out in the proposed Terms of Reference relating to the Bribery Act, and whether there was training available to provide an overview of the complex piece of legislation, the T/Monitoring Officer agreed to consider this option for a future training session, as well as providing information on specific areas such as Anti-Fraud and Corruption, and Whistleblowing.

### **RESOLVED THAT**

Following a review, Members unanimously agreed the Terms of Reference of the Standards Committee.

### **120.2 SCHEDULE OF OBSERVATION VISITS BY INDEPENDENT MEMBERS OF STANDARDS COMMITTEE TO SWFRA COMMITTEES**

The T/Monitoring Officer presented Members with a schedule of Fire Authority Committee dates to enable observation visits to be scheduled by Independent Members of the Standards Committee.

Following discussion, the Chair agreed that whenever possible it would be good practice for Members to observe Fire & Rescue Authority meetings. He urged Members to refer to the timetable of meetings and to co-ordinate their availability with the Members Services officers.

## **RESOLVED THAT**

Members unanimously agreed to accept and schedule the observation visits by Independent Members of the Standards Committee to South Wales Fire & Rescue Authority Committees.

Mr D Fussell withdrew from the meeting at 18:00 hrs.

## **121. REPORTS FOR INFORMATION**

### **121.1 PUBLIC SERVICE OMBUDSMAN FOR WALES – CODE OF CONDUCT CASEBOOK**

The Deputy Monitoring Officer presented a report to Members advising them of the Public Service Ombudsman for Wales Code of Conduct Casebook.

## **RESOLVED THAT**

Following discussion on individual cases and the rise in social media cases, Members agreed to note the content extracted from the 'Our Findings Section' of the Public Service Ombudsman for Wales website, concerning complaints against the Code of Conduct for the period March 2021 to August 2022.

### **120.3 UPDATE REGARDING THE ALL WALES STANDARDS FORUM**

The T/Monitoring Officer gave a verbal update on the proposed National Standards Forum. Via the All-Wales Monitoring Officers group, feedback had been received of the overwhelming support for the National Standards Forum to be established. The finer details of the inception have yet to be agreed, however it is expected that more detail will be available following the next Monitoring officers group meeting to be held on 7 October, 2022. The T/Monitoring Officer agreed to circulate any update following that meeting.



**RESOLVED THAT**

Members agreed to note the verbal update on the All Wales Standards Forum.

**120.4 OUTCOME REPORT FOLLOWING THE CONSULTATION ON WELSH GOVERNMENT'S STANDARDS OF CONDUCT STATUTORY GUIDANCE**

The T/Monitoring Officer informed Members that Welsh Government consulted on the draft guidance relating to 'Standards of Conduct' under the Local Government and Elections (Wales) Act 2021, which included the following duties:-

- To promote and maintain high standards of conduct.
- To co-operate with the Council's Standards Committee
- To provide advice and training
- To write an Annual Report

**RESOLVED THAT**

Following discussion on a number of the key points and observations contained within the report, as well as the additional duties and responsibilities allocated to group leaders, Members agreed to note the content of the summary of responses to the consultation.

The Chair closed the meeting by thanking Members and Officers for their informative discussion and debate.

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## AGENDA ITEM NO 5

**Appointment of Vice Chair of the Standards Committee**

-

To be presented verbally on the day

Presenting Officer: Assistant Chief Officer – Corporate Services, Geraint  
Thomas

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**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN****SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 6  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF HEAD OF CORPORATE SUPPORT

**DRAFT STANDARDS COMMITTEE ANNUAL REPORT 2022/2023****THIS REPORT IS FOR DECISION**

REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES

REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH  
WATKINS**SUMMARY**

As a matter of good corporate governance, an action was included in the 2020/2021 Annual Governance Statement to introduce an annual report on the work of the Standards Committee to provide the Authority with an update on its activities during each financial year.

**RECOMMENDATIONS**

That Members note the contents of the Standards Committee Annual Report 2022/2023.

**1. BACKGROUND**

- 1.1 The Local Government and Elections (Wales) Act 2021) was passed by the Senedd on 18 November 2020 and received Royal Assent on 20 January 2021. Having monitored the Bill's progress since publication in November 2019, and having actively engaged with the public consultation, the most recent of which was the response to the consultation on the Regulations to establish corporate joint committees, the Service is now implementing the requirements placed on it by the Act.
- 1.2 As a result, the Service has embedded measures to enable the Standards Committee to produce an Annual Report to the Fire & Rescue Authority, with effect from 5 May 2022. The Fire & Rescue Authority will consider the report and any recommendations made by its Standards Committee within three months of its receipt.

**2. PROPOSAL**

- 2.1 Appendix 1 contains the Standards Committee Annual Report 2022/2023 for presentation to the Fire & Rescue Authority as required by legislation

### 3. IMPLICATIONS

#### 3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

#### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	No
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	Yes
Service Policy	No
National Policy	No

3.2.1 To ensure compliance with the actions set out in the Annual Governance Statement which is considered as part of the audit of financial statements by Audit Wales each year.

#### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

### 4. RECOMMENDATIONS

4.1 That Members note the contents of the Standards Committee Annual Report 2022/2023.

<b>Contact Officer:</b>	Sarah Watkins Head of Corporate Support	
<b>Background Papers</b>	<b>Date</b>	<b>Source/Contact</b>
None		
<b>Appendices</b>		
Appendix 1	Standards Committee Annual Report 2022/2023	

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# South Wales Fire and Rescue Authority

# Standards Committee Annual Report 2022/2023



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### 1. Background

This is the Standards Committee's second annual report to the Fire and Rescue Authority and spans the period from April 2022 to March 2023. Legislation requires that Standards Committees meet at least annually. The Terms of Reference of the Standards Committee provide a remit to promote and maintain high standards of conduct by Members of the Authority. Also, where statute permits, to receive reports and complaints about Members and to conduct or oversee investigations and make recommendations to the Authority.

The quorum for this body is at least 3 persons present (including chairperson) and at least half members present are independent members.

### 2. Terms of Reference

The terms of reference of the Standards committee were reviewed in the October 2022 Meeting and are as follows:

#### **SOUTH WALES FIRE & RESCUE AUTHORITY STANDARDS COMMITTEE TERMS OF REFERENCE**

The Standards Committee will have the following roles and functions:

1. Promoting and maintaining high standards of conduct by Fire & Rescue Authority Members and co-opted Members of the Authority.
2. Assisting the Fire & Rescue Authority Members and co-opted Members to observe the Members' Code of Conduct.
3. Advising the Fire & Rescue Authority on the adoption or revision of the Members' Code of Conduct.
4. Monitoring the operation of the Members' Code of Conduct.

5. Advising, training or arranging to train Fire & Rescue Authority Members and co-opted Members on matters relating to the Members' Code of Conduct.
6. Granting dispensations to Fire & Rescue Authority Members relating to interests set out in the Members' Code of Conduct.
7. Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter referred to that officer by the Local Commissioner in Wales.
8. Review, monitor and challenge the content and effectiveness of the Authority's policies, procedures, guidance notes and other documents designed to prevent breaches of the Bribery Act 2010 within the organisation and to make recommendations to improve these to reduce risk to the Authority.
9. Overview of complaints handling and Ombudsman investigations.
10. Make an Annual Report to Full Fire & Rescue Authority describing how the Committee's functions have been discharged during the financial year.
11. Maintain an overview of the operation and maintenance of the Authority's complaints handling procedures insofar as they relate to issues concerning Members.









## **ANNUAL REPORT**

12. As soon as possible after the end of each financial year, the Standards Committee must make an annual report to the Fire & Rescue Authority.
13. The annual report must include:
  - 13.1 a description of how the Standards Committee has discharged its functions.
  - 13.2 a summary of any reports and recommendations that were referred to the Standards Committee under Chapter 3 of Part 3 of the Local Government Act 2000.
  - 13.3 a summary of the actions that the Standards Committee has taken following consideration of the reports and recommendations referred to in 13.2 above.
  - 13.4 a summary of any notices that were given to the Standards Committee under Chapter 4 of Part 4 of the Local Government Act 2000; and
  - 13.5 the Standards Committee's assessment of the extent to which Members on the Fire & Rescue Authority have complied with their duties to promote and maintain high standards of conduct and to co-operate with the Standards Committee in the exercise of the Standards Committee's functions; and
  - 13.6 any recommendations which the Standards Committee considers it appropriate to make to the Fire & Rescue Authority about any matter which falls within the Committee's functions.

## **WORK PROGRAMME**

14. The Committee will prepare a work programme which will be reviewed and approved at each Committee meeting.

### 3. Membership

<b>Independent Members</b>		
<p>Mr Ronald Alexander</p>  <p>Joined the Committee 2018</p>	<p>Appointed Chairperson February 2022</p>	<p>Dr Mark Kerbey</p>  <p>Joined the Committee 2016</p>
<p>Mr Simon Barnes</p>  <p>Joined the Committee 2018</p>	<p>Mr David Fussell</p>  <p>Joined the Committee 2018</p>	<p>Ms Kate Thorogood</p>  <p>Joined the Committee 2022</p>
<b>Fire and Rescue Authority Members</b>		
<p>Cllr Aurfron Roberts</p>  <p>Joined the Committee 2017</p>	<p>Cllr Sian-Elin Melbourne</p>  <p>Joined the Committee 2022</p>	<p>Cllr Glynne Holmes</p>  <p>Joined the Committee 2021</p>

The committee would like to formally thank the outgoing chair Mr Geoffrey Hughes for his long standing commitment to the Authority. Geoffrey stood down in August 2022 having been an independent member of the Standards Committee for his 12 years of excellent dedicated service on behalf of the Standards Committee, with 6 years being as Chair.

### 4. Work of the Committee

The Committee’s main role is to promote and maintain high standards of conduct by elected and co-opted members of South Wales Fire Authority and to assist them to observe the Members’ Code of Conduct

The committee meets at least twice annually for the routine scheduled meetings. Additional meetings would be scheduled as required. The Committee endeavours to maintain regular training.

### Fire Authority Member Induction Training - Member Training Delivered to Fire Authority Members

A training session for elected members was held on 5<sup>th</sup> July 2022. The focus of this training is a general introduction for new elected members to the work of the Fire Authority and refresher training for returning elected members of the Authority.

Standards Committee members in attendance were:

<p><b>Independent Members</b> Mr Geoff Hughes</p>	<p><b>Fire and Rescue Authority Members</b> Cllr Glynne Holmes Cllr Sian-Elin Melbourne</p>
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### Training – Standards Committee Member Training Delivered by Dave Daycock

A training session for members was held during the 3<sup>rd</sup> October 2022 meeting focusing on the Members Code of Conduct. This was kindly delivered by David Daycock LLB (Wales) LLM (Bristol) Barrister, Clerk and Monitoring Officer Mid and West Wales Fire and Rescue Authority. The Training can be viewed in the [video of the Committee meeting](#) the training runs from 2 minutes into the video until 1 hour and 12 minutes.

Members in attendance were:

<p><b>Independent Members</b> Mr Simon Barnes (via teams) Dr Mark Kereby Mr David Fussell Ms Katie Thorogood</p>	<p><b>Fire and Rescue Authority Members</b> Cllr Glynne Holmes Cllr Sian-Elin Melbourne</p>
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### 03 October 2022 Meeting

The scheduled meeting was held was held in a hybrid format via Teams 03 October 2022. The video recording of the meeting is available via this [link](#).

Members in attendance were:

<p><b>Independent Members</b> Mr Simon Barnes (via teams) Dr Mark Kereby Mr David Fussell Ms Katie Thorogood</p>	<p><b>Fire and Rescue Authority Members</b> Cllr Glynne Holmes Cllr Sian-Elin Melbourne</p>
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### 30 January 2023 Meeting

The scheduled meeting was held was held in a hybrid format via Teams 30 January 2023.

Members in attendance were:

<p><b>Independent Members</b> Mr Ronald Alexander (Chairperson) Dr Mark Kereby Mr David Fussell Ms Katie Thorogood</p>	<p><b>Fire and Rescue Authority Members</b> Cllr Aurfron Roberts Cllr Glynne Holmes Cllr Sian-Elin Melbourne</p>
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## 5. Issues Discussed

### 03 October 2022 Standards Committee

#### Review of Terms of Reference of the Standards Committee

Following a review, Members unanimously agreed the Terms of Reference of the Standards Committee.

#### Schedule of Observation Visits by Independent Members of Standards Committee to SWFRA Committees

Members unanimously agreed to accept and schedule the observation visits by Independent Members of the Standards Committee to South Wales Fire & Rescue Authority Committees.

#### Member Training Delivered by Dave Daycock

Mr D Daycock, Mid & West Wales FRS Monitoring Officer, provided Members with an online verbal training session on the following key areas:-

- Part 1 – Members Code of Conduct
- Part 2 – Work of the Standards Committee and Members of the Standards Committee
- Part 3 – The Ombudsman, The Adjudication Panel of Wales, and the Role of the Monitoring Officer

#### Public Service Ombudsman for Wales' Code of Conduct Casebook - for the period March 2021 to August 2022.

Following discussion on individual cases and the rise in social media cases, Members agreed to note the content extracted from the 'Our Findings Section' of the Public Service Ombudsman for Wales website, concerning complaints against the Code of Conduct for the period March 2021 to August 2022.

#### Update Regarding the All Wales Standards Forum

Members agreed to note the verbal update on the All Wales Standards Forum.

#### Outcome Report Following the Consultation on Welsh Government's Standards of Conduct Statutory Guidance

The T/Monitoring Officer informed Members that Welsh Government consulted on the draft guidance relating to 'Standards of Conduct' under the Local Government and Elections (Wales) Act 2021, which included the following duties:-

- To promote and maintain high standards of conduct.
- To co-operate with the Council's Standards Committee
- To provide advice and training
- To write an Annual Report

### 30 January 2023 the Committee Meeting

#### Public Service Ombudsman for Wales - Code of Conduct Casebook - for the period 01 August 2022 to 29 December 2022.

Content will be drawn from drafted minutes

**Feedback report following Observations Visits by Independent Members of Standards Committee to SWFRA Committees**

Content will be drawn from drafted minutes

**Standards Conference Wales 2023**

Content will be drawn from drafted minutes

**Adjudication Panel for Wales – Annual Report 2021/22**

Content will be drawn from drafted minutes

**Independent Remuneration Panel for Wales’ Draft Annual Report - February 2023**

Content will be drawn from drafted minutes

**Public Services Ombudsman for Wales – Annual Report and Accounts 2020/21**

Content will be drawn from drafted minutes

**Public Service Ombudsman for Wales – Updated Guidance on the Code of Conduct**

Content will be drawn from drafted minutes

**Draft Standards Committee Annual Report**

Content will be drawn from drafted minutes

**6. Complaints of Breach of the Code of Conduct for Authority Members**

Complaints made but not investigated by the PSOW	None
Complaints made and investigated by the PSOW	None
Investigations completed by the PSOW where the decision was no evidence of breach of the Code of Conduct or no action taken	None
Investigations undertaken by the PSOW where the decision was to discontinue the investigation	None
Investigations referred to the Standards Committee for consideration by the Standards Committee by the Standards Committee.	None
Investigations completed by the PSOW which determined there was evidence of a breach of the Code of Conduct	None

**7. Financial Implications**

The budget for the Standards Committee is managed through a single budget heading for all Authority costs. Independent members of the Standards Committee are entitled to claim remuneration based on meetings and events attended. For attending meetings in this financial year, a total of £XXX has been claimed. In the previous financial year 2021/2022 the committee costs were £659.

**8. Conclusion**

Following its work over the last 12 months the SWFRA Standards Committee is of the

opinion that it has complied with its duty to promote the code of conduct and that the Elected Members of the Authority have maintained high standards of conduct and co-operated with the Standards Committee in the exercise of the Standards Committee's functions; The Standards Committee recommends that the South Wales Fire and Rescue Authority notes its annual report 2022/23.

## 9. Useful Contacts

<p>Geraint Thomas ACO - Director Corporate Services &amp; Monitoring Officer Tel: 01443 232000 <b>Address:</b> Business Park, Forest View, Llantrisant, Ynysmaerdy, Pontyclun CF72 8LX <a href="http://www.southwales-fire.gov.uk">www.southwales-fire.gov.uk</a></p>	<p>Sarah Watkins Head of Corporate Support &amp; Deputy Monitoring Officer Tel: 01443 232000 <b>Address:</b> Business Park, Forest View, Llantrisant, Ynysmaerdy, Pontyclun CF72 8LX <a href="http://www.southwales-fire.gov.uk">www.southwales-fire.gov.uk</a></p>
<p>Adjudication Panel for Wales Oak House, Cleppa Park, Celtic Springs Newport, NP10 8BD Telephone: 03000 259805 E-mail: <a href="mailto:adjudication.panel@gov.wales">adjudication.panel@gov.wales</a> <a href="http://www.adjudicationpanel.gov.wales/contact">www.adjudicationpanel.gov.wales/contact</a></p>	<p>Public Services Ombudsman for Wales 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ Telephone: 0300 790 0203 Fax: (01656) 641199 E-mail: <a href="mailto:ask@ombudsman.wales">ask@ombudsman.wales</a> <a href="http://www.ombudsman.wales">www.ombudsman.wales</a></p>



**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN****SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 7  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF HEAD OF CORPORATE SUPPORT

**PUBLIC SERVICE OMBUDSMAN FOR WALES' CODE OF CONDUCT CASEBOOK****THIS REPORT IS FOR INFORMATION**REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES  
REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH WATKINS**SUMMARY**

This report presents to Members the Public Services Ombudsman for Wales Code of Conduct Casebook.

**RECOMMENDATION**

It is recommended that Members note the content extracted from the Our Findings Section of the Public Services Ombudsman for Wales website concerning complaints against the Code of Conduct for the period 1 August 2022 to 29 December 2022.

**1. BACKGROUND**

- 1.1 Members last considered the content extracted from the [Our Findings](#) Section of the Public Services Ombudsman for Wales website concerning complaints against the code of conduct for the period March 2021 to August 2022.
- 1.2 In Appendices 1 to 5 of this report Members will see extracts from the Public Services Ombudsman for Wales website regarding decisions made relating to the Code of Conduct.
- 1.3 Members should note that all the findings are available to be accessed via the Public Services Ombudsman for Wales website.

**2. ISSUE**

- 2.1 The Standards Committee, as part of its terms of reference, has responsibility to oversee matters relating to the Public Services Ombudsman for Wales (the Ombudsman).

- 2.2 The Ombudsman issue the findings against complaints made regarding the Code of Conduct on its website to provide the public with an overview of the work of the Ombudsman.
- 2.3 The Standards Committee review the work of the Ombudsman as a matter of good governance. There have been no findings of a breach of the code against any Members of South Wales Fire & Rescue Authority within the Ombudsman Website.
- 2.4 Members of the Standards Committee are requested to note the findings regarding complaints relating to the Code of Conduct in Appendices 1 to 5.

### 3. IMPLICATIONS

#### 3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

#### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	No
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	No
Service Policy	No
National Policy	No

#### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No

Procurement	No
Budget Revenue/Capital	No

#### 4. RECOMMENDATION

- 4.1 It is recommended that Members note the content extracted from the Our Findings Section of the Public Services Ombudsman for Wales website concerning complaints against the Code of Conduct for the period 1 August 2022 to 29 December 2022.

<b>Contact Officer:</b>	Sarah Watkins Head of Corporate Support
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Background Papers	Date	Source/Contact
None		

<b>Appendices</b>	
Appendix 1	Code of Conduct Integrity
Appendix 2	Code of Conduct Promotion of Equality and Respect
Appendix 3	Code of Conduct Disclosure of Registration of Interests
Appendix 4	Code of Conduct Duty to uphold the Law
Appendix 5	Code of Conduct Selflessness and Stewardship

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**Appendix 1****Code of Conduct Integrity**

**No outcomes to report for the search period 01 August 2022 to 29  
December 2022**

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## Appendix 2

## Code of Conduct - Promotion of Equality and Respect

### Promotion of equality & respect : Ceredigion County Council

Report date: 03/08/2022	Subject: Promotion of equality & respect
Outcome: CODE	Case ref number: 202106365
Report type: Code - No Action Necessary	Relevant body: Ceredigion County Council

The Ombudsman received a self-referred complaint from a Member (“the Former Member”) of Ceredigion County Council (“the Council”), that they had breached the Council’s Code of Conduct for members.

The Member said that during a discussion at a public Council meeting about Welsh Ambulance Service NHS Trust (“WAST”) provision in Ceredigion, they had made inappropriate comments about “incomers” to the county and “immigrants” being allowed into Wales by the Welsh Government and the potential impact on those services. The Ombudsman’s investigation considered whether the Former Member’s conduct may have breached paragraphs 4(a), 4(b) and 6(1)(a) of the Council’s Code of Conduct.

Information was obtained from the Council including a transcript of what the Former Member had said in the meeting, minutes of Council meetings, and comments from the Former Member. The Ombudsman found that following the incident the Former Member had stepped down from their political party to sit as an independent member. During the investigation the Former Member stood in the election on 5 May 2022 and was not returned by the local electorate.

In comments to the Council and the Ombudsman, the Former Member said the remarks had been inappropriate and taken in a way not intended. The Ombudsman found that the Former Member’s remarks did not extend to gratuitous or personal comment or hate speech and would not have been interpreted as representative of the views of the Council. As such, they would not have amounted to a breach of paragraphs 4(a) or 6(1)(a) of the Code of Conduct. The Ombudsman determined, however, that they could be considered divisive and disrespectful, and suggestive of a breach of paragraph 4(b) in failing to show respect and consideration for others.

The Ombudsman considered that, as the Former Member’s role was ultimately decided by the local electorate and they were no longer a member of the Council, any sanction which could be given if a breach of the Code of Conduct was found by

**the Council's Standards Committee would be limited and therefore it was not in the public interest to take any further action in respect of the matter.**

**The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.**



**Appendix 3****Code of Conduct - Disclosure of Registration of Interests**

**No outcomes to report for the search period 01 August 2022 to 29  
December 2022**

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## Appendix 4

## Code of Conduct - Duty to uphold the Law

**Duty to uphold the law : Llandoverly Town Council**

Report date: 27/10/2022	Subject: Duty to uphold the law
Outcome: CODE	Case ref number: 202100012
Report type: CODE - Referred to Standards Committee	Relevant body: Llandoverly Town Council

The Ombudsman received a complaint that a Member (“the Member”) of Llandoverly Town Council (“the Council”) had breached the Code of Conduct. The Member had been convicted of drug driving and it was reported in a newspaper that she did not intend to stand down as Mayor.

The investigation considered whether the Member failed to comply with paragraph 6(1)(a) of the Code of Conduct in that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

The Ombudsman considered the Member’s conviction and the fact that her sentence fell short of automatic disqualification as outlined in Section 80A of the Local Government Act 1972. The Ombudsman also considered the account provided by the Member.

The Ombudsman considered whether further action was needed in the public interest and the overriding purpose of the ethical standards regime in Wales, which is to uphold standards of conduct in public life and maintain confidence in local democracy. The Ombudsman was of the view that the Member’s conviction and the press coverage that followed which referred to the Council, the Member’s membership of the Council and her position as Mayor, could be regarded a conduct that was capable of bringing her Council and/or her office as a councillor into disrepute and was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct.

The report on the investigation was referred to the Monitoring Officer of Carmarthenshire County Council for consideration by its Standards Committee.

The Standards Committee concluded that the member had breached paragraph 6(1)(a) of the Code of Conduct. Accordingly, the Standards

**Committee decided that the Member should be suspended to 2 months and be required to attend Code of Conduct training within 6 months.**

**Appendix 5****Code of Conduct - Selflessness and Stewardship**

**No outcomes to report for the search period 01 August 2022 to 29  
December 2022**

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## AGENDA ITEM NO 8

**Feedback report following Observation visits by Independent Members of  
Standards Committee to SWFRA Committees**

-

To be presented verbally on the day

Presenting Officer: Assistant Chief Officer – Corporate Services, Geraint  
Thomas

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**SWFRA Observations Checklist for Independent Members of Standards Committee at SWFRA Meetings  
v1**

<b>Observations of Independent Member of Standards Committee</b>	
Name of Independent member observing:	
SWFRA Meeting observed:	
Date of Meeting:	
Type of Meeting	Online / Hybrid / In person only
Time of Meeting:	
Location of Meeting:	
Location of Observer:	

		<b>Comments</b>
<b>Introduction</b>	Were you welcomed by the Monitoring Officer / Deputy?	Yes/No/NA*
	Were Members advised that you were observing the Meeting?	Yes/No/NA*
<b>Room Set Up</b>	From the seating arrangement was it clear who the Members, the Officer(s) and the public were?	Yes/No/NA*
	Did Members and Officer(s) have name cards identifying who they were?	Yes/No/NA*
	Was the room well lit?	Yes/No/NA*

\*Delete/circle as applicable

## SWFRA Observations Checklist for Independent Members of Standards Committee at SWFRA Meetings v1

		Comments
<b>Room Set up cont.</b>	Could you hear what was being said?	Yes/No/NA*
	Were the room(s) used of an appropriate size?	Yes/No/NA*
	Were a copies of the agenda available on the website were any copies available for the public (other than any Part II reports)?	Yes/No/NA*
<b>Meeting</b>	Did the meeting commence on time?	Yes/No/NA*
	Does the Authority have a procedure for public speaking or is there an opportunity to suspend Standing Orders to allow a person to speak?	Yes/No/NA*
<b>Decision Making</b>	Were motions moved and seconded?	Yes/No/NA*
	If there wasn't agreement by the meeting as a whole was the motion voted on?	Yes/No/NA*
	Were any amendments moved and seconded?	Yes/No/NA*

**SWFRA Observations Checklist for Independent Members of Standards Committee at SWFRA Meetings  
v1**

		<b>Comments</b>
<b>Decision Making cont.</b>	Were votes on the amended motion taken before the original motion? [A vote on an original motion is only necessary if the vote on an amendment is lost]	Yes/No/NA*
	Was only one amendment at any given time the subject of discussion prior to taking a vote on the amendment?	Yes/No/NA*
	Did the meeting follow the agenda?	Yes/No/NA*
	Were rulings by the Chair adhered to?	Yes/No/NA*
	If Part II items appeared on the agenda, did Members agree to move into Part II of the agenda?	Yes/No/NA*
	Were Members of the Public (including the Independent Standards Committee Member) asked to leave the meeting room prior to the discussion of Part II matters?	Yes/No/NA*
	Were there any other items discussed at the meeting without a report being available and no prior notice given?	Yes/No/NA*

## SWFRA Observations Checklist for Independent Members of Standards Committee at SWFRA Meetings v1

		Comments
<b>Conduct of Members</b>	Did Members show respect and consideration for others?	Yes/No/NA*
	If a Member declared a personal interest, did the Member explain the nature of the interest?	Yes/No/NA*
	If a Member declared a personal and prejudicial interest in a report did they leave the Meeting Room during the consideration of the relevant report?	Yes/No/NA*
	Did a Member declare a personal and prejudicial interest and that they had a dispensation to speak from the Standards Committee?  And if so, did the Member leave the Meeting Room having spoken on the matter?	Yes/No/NA*
	Did a Member declare a personal and prejudicial interest and that they had a dispensation to speak and vote?	Yes/No/NA*
	What time did the Meeting end?	Yes/No/NA*

**SWFRA Observations Checklist for Independent Members of Standards Committee at SWFRA Meetings  
v1**

**Any additional general comments**

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## AGENDA ITEM NO 9

**Standards Conference Wales 2023**

-

To be presented verbally on the day

Presenting Officer: Head of Corporate Support, Sarah Watkins

For Members interest please see the link below for the All Wales Standards Committee Conference which took place on 9 February 2022

<https://e1.pcloud.link/publink/show?code=kZUQmYZEaM4NkAzcX7Cbzqhg59WG5Jq1kEV>

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**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN**

**SOUTH WALES FIRE & RESCUE AUTHORITY**

AGENDA ITEM NO 10  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF HEAD OF CORPORATE SUPPORT

**ADJUDICATION PANEL FOR WALES – ANNUAL REPORT 2021/22**

**THIS REPORT IS FOR INFORMATION**

REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES

REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH WATKINS

**SUMMARY**

This report advises Members of the Adjudication Panel for Wales Annual Report 2021/22.

**RECOMMENDATIONS**

That Members note the Adjudication Panel for Wales' Annual Report 2021/22.

**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. ISSUE**

- 2.1 The APW report is attached at Appendix A to this report. Section 2 (at page 8-11) provides details of the performance and progress from 2017-

18 to 2021-22, 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 (page 12) of the APW Report.

### 3. IMPLICATIONS

#### 3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

#### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	No
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	No
Service Policy	No
National Policy	No

3.2.1 The role of the Standards Committee is to oversee, maintain and strengthen high standards of conduct in public office and an awareness of the work of the APW is an important part of this work.

#### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

### 4. RECOMMENDATIONS

- 4.1 That Members note the Adjudication Panel for Wales' Annual Report 2021/22.

<b>Contact Officer:</b>	Sarah Watkins Head of Corporate Support
-------------------------	--

<b>Background Papers</b>	<b>Date</b>	<b>Source / Contact</b>
Adjudication Panel for Wales Annual Report Year 2021 – 2022	March 2021	<a href="https://adjudicationpanel.gov.wales/sites/adjudicationpanel/files/2022-07/2021-2022-apw-annual-report.pdf">https://adjudicationpanel.gov.wales/sites/adjudicationpanel/files/2022-07/2021-2022-apw-annual-report.pdf</a>

<b>Appendices</b>	
Appendix 1	Adjudication Panel for Wales Annual Report 2021/22

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# Adjudication Panel for Wales Annual Report

Year 2021 – 2022

PDC / APW

PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES

# Contents

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## Foreword

This is my seventh report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2021 – 31 March 2022.

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.

This financial year has seen the APW deal with an unusually high number of cases. It is not clear whether this is connected to the impact of the COVID-19 pandemic, the election cycle or simply a natural fluctuation. There is no common theme to be drawn from the cases heard. This year has seen all types of councillors appearing before the APW, ranging from leaders of councils to members of community councils. Given the new duties imposed on leaders of parties in local government concerning standards in public life, it is to be expected that matters will improve. I remain of the view that a good year for standards is when the APW is quiet.

At the time of writing this foreword, the 2022 local government elections have just taken place. Whilst congratulating those who have been elected to their important public service role, I also encourage councillors to take advantage of the Code of Conduct training they will be offered by monitoring officers and others and to review the guidance issued by the Public Services Ombudsman for Wales. Such training is designed to help and support councillors to carry out their work for their community in accordance with the Code and to avoid ever having to appear before either the standards committee or the APW.

Finally, I note the recommendations of the Penn review and its proposals for changes to the APW's powers and procedures. I look forward to working with the Welsh Government as it considers its position in relation to the report it commissioned and its implementation. I am conscious that the Welsh Tribunals as a whole face a time of significant change, following the Law Commission report on Welsh justice, but am confident the APW will continue to deliver fair decisions to ensure compliance with the Code while protecting the enhanced freedom of expression for those engaged with politics.

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.

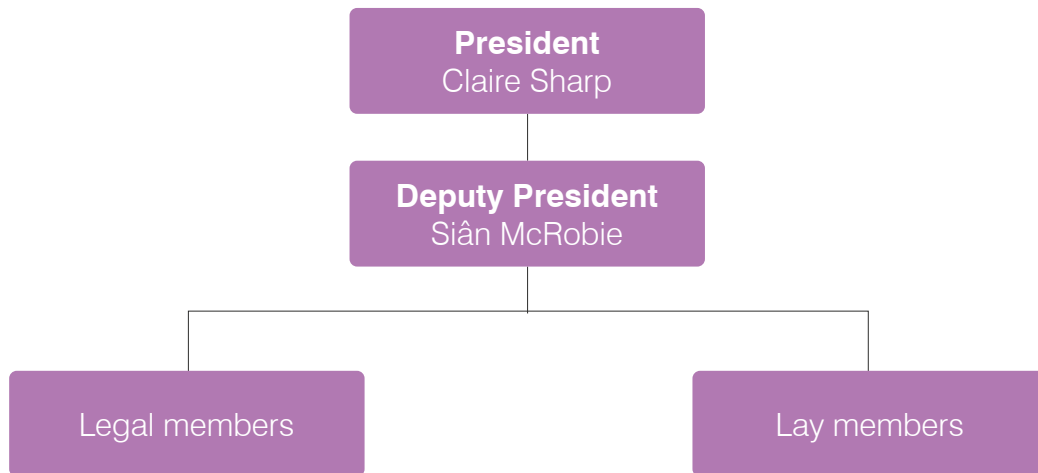
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

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 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.

<b>President</b>	The President has judicial responsibility for the APW and its members.
<b>Deputy President</b>	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.
<b>Legal Members</b>	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.
<b>Lay Members</b>	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
<b>Administration</b>	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 1 new lay member.

## Training

A training seminar was held on **5 May 2021**, with a continued emphasis on judgecraft; together with case law updates and a session on credibility of witnesses and fact-finding.

## 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](mailto: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

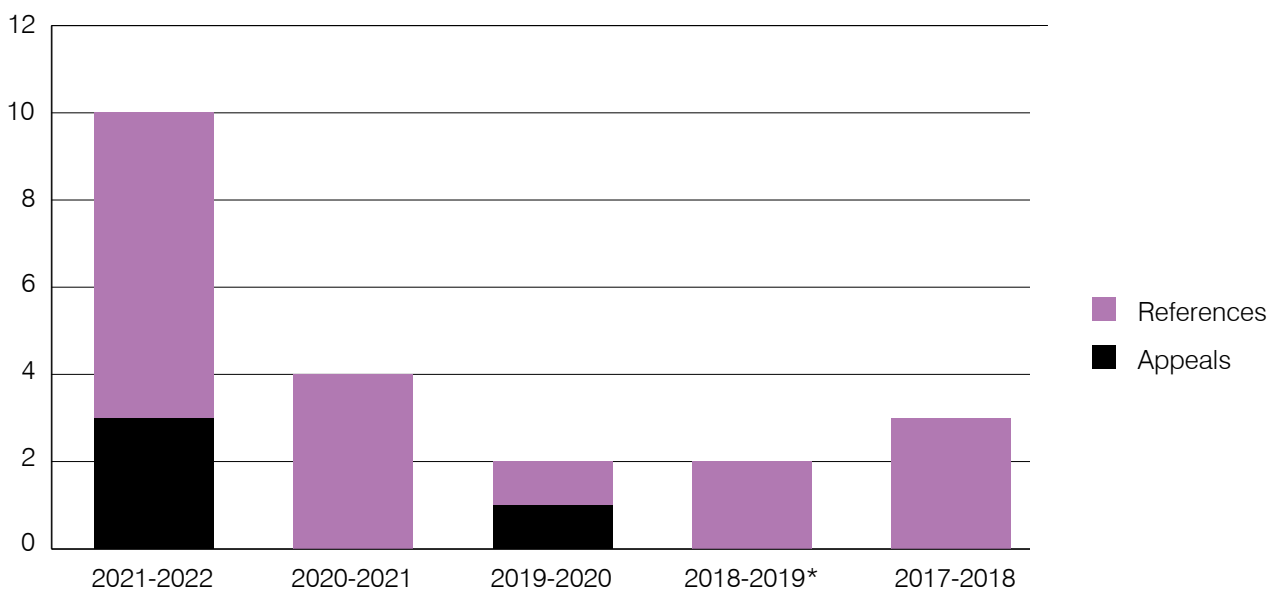
### Numbers and Statistics

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 2017-March 2022



\* The 2018-2019 figure was incorrectly detailed in the 2018-2019 Annual Report which has been corrected above.

Graph 2.2: Number of references and appeals decided by year April 2017-March 2022

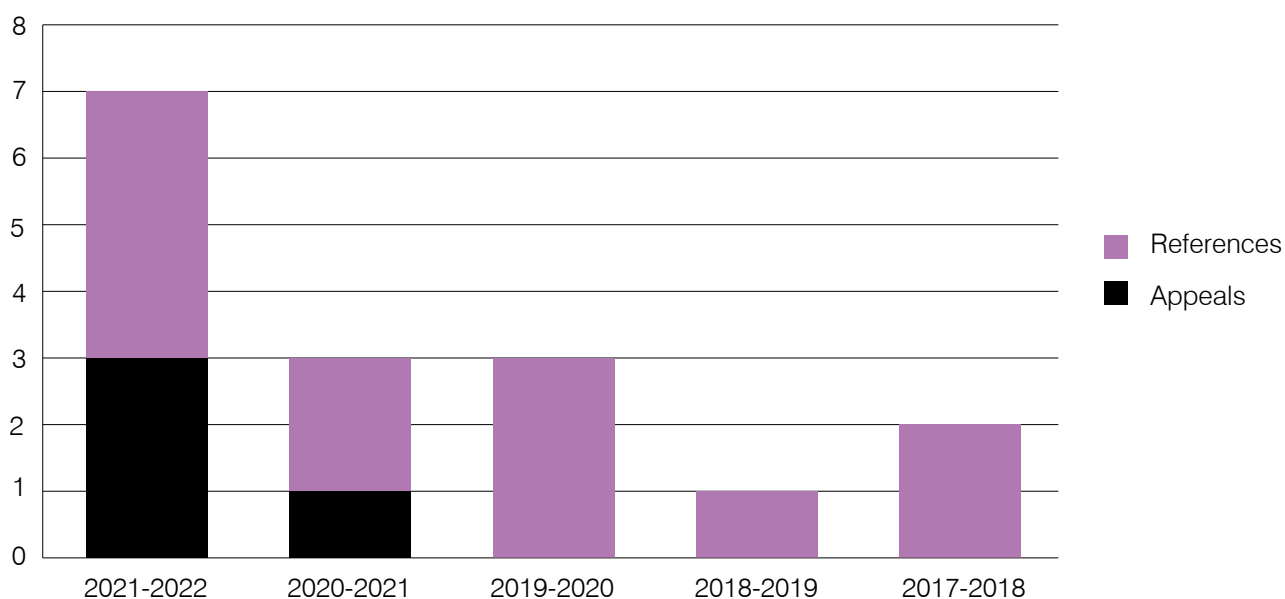
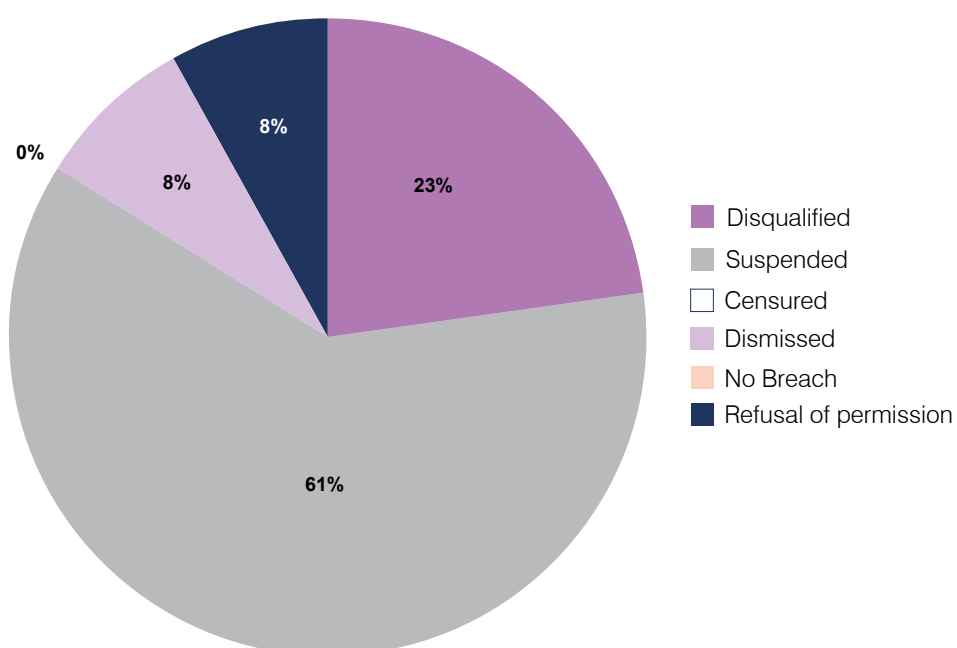
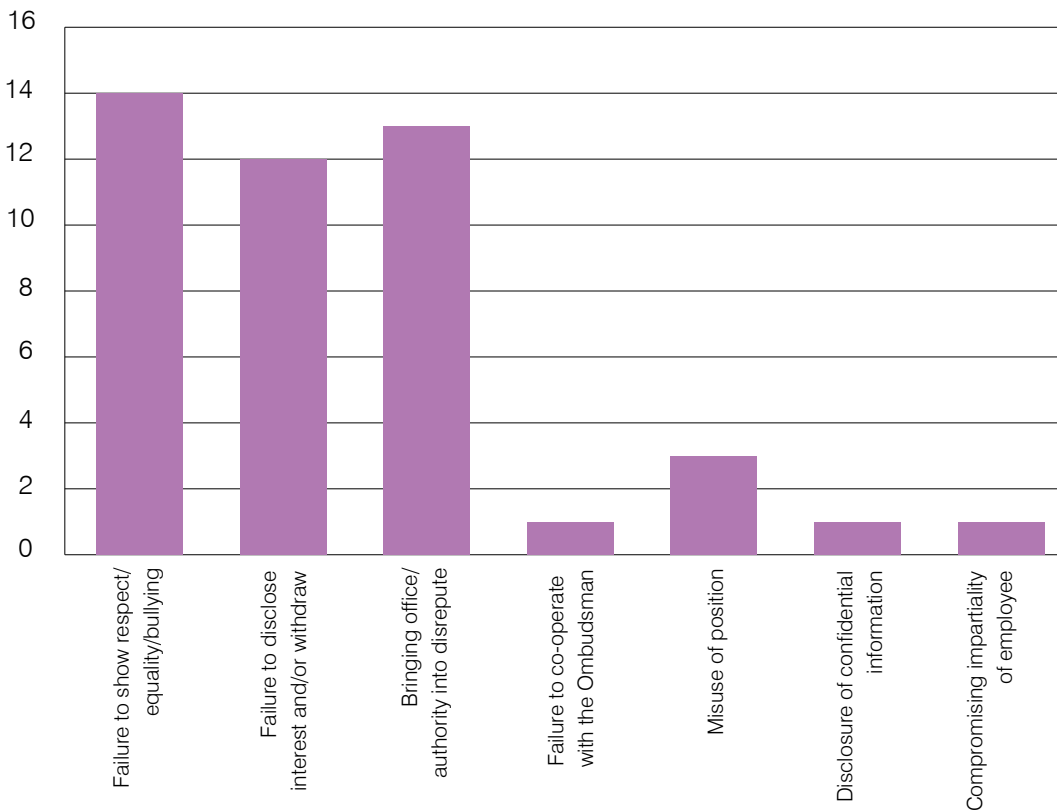


Chart 2.3: Outcomes of references and appeals April 2017- March 2022

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 2017-March 2022



## Hearings data

During 2021-2022:

Type	Length (in days)
Reference	8 hearing days
Appeal	2 hearing day

6 listing conferences took place in relation to these cases.

## Onward appeals

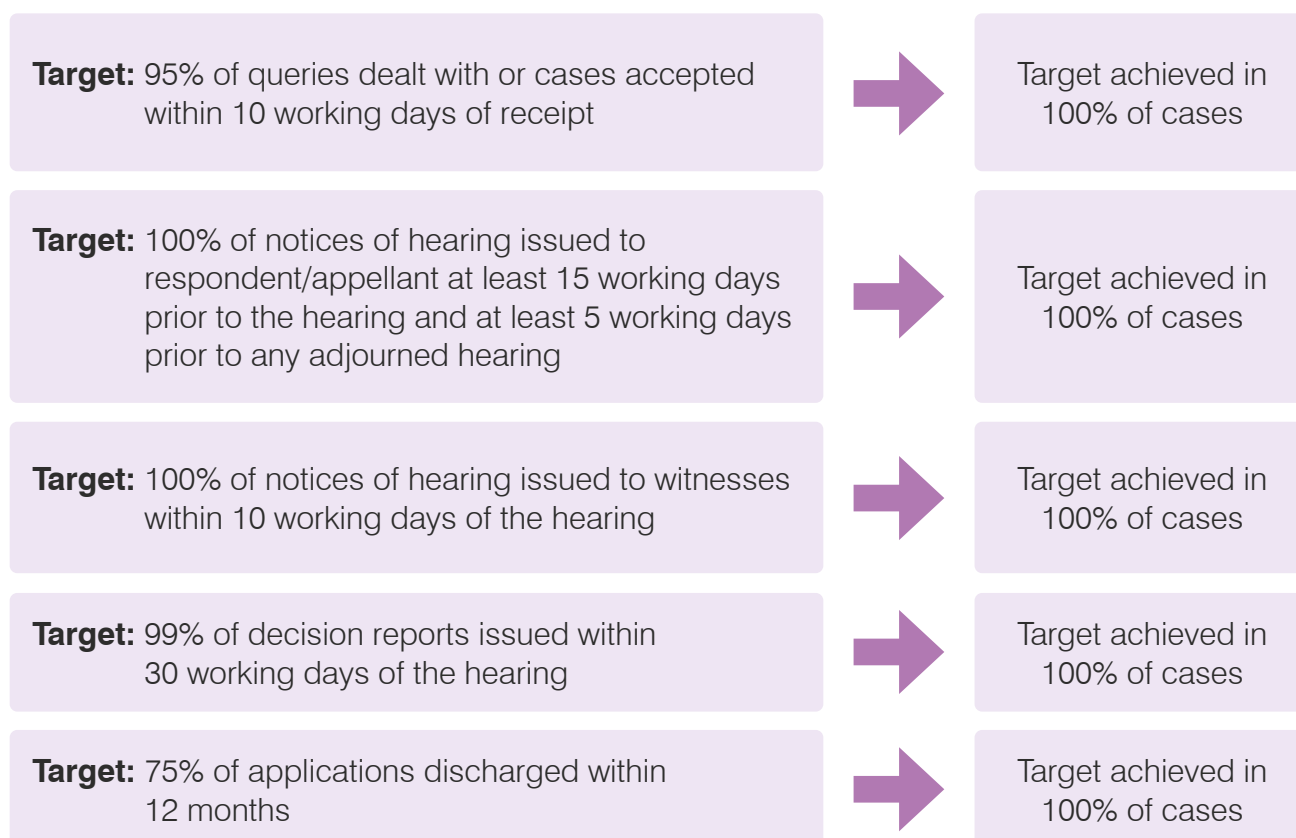
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

## 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 2021-2022



## Complaints

The APW received and concluded 1 formal complaint during the reporting period.

## Section 3 – Case summaries

In this section:

- References
- Appeals

### References

During the reporting period, **4 case tribunals** took place resulting from a reference from the Ombudsman. A summary of the cases determined by the APW appears below:

APW/003/2020-021/CT

Caerphilly County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Caerphilly County Borough Council by conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, failing to disclose a personal interest in council business when attending a meeting or making written representations, and failing to withdraw from a meeting in respect of a matter in which he had a prejudicial interest (without obtaining a dispensation).

The councillor was Leader of the Council. In that role, he attended meetings of a City Deal Regional Cabinet, a joint working arrangement between 10 Councils. The councillor was also a director of an investment vehicle company. Having seen a confidential report, the councillor invested personally in a company affected by the contents of that report. When the councillor attempted to amend his register of interests a few months later to reflect his investment, he was advised by a senior officer this was not necessary; he then did not declare his interest at a later City Deal meeting, but did so on further occasions and left those meetings.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the Code of Conduct for Caerphilly County Borough Council 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));
- 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 personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent (paragraph 11(1));
- 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 – (a) withdraw from the room, chamber or place where a meeting considering business is being held..."(paragraph 14(1)(a)).



The Case Tribunal unanimously concluded that the councillor was to be suspended from acting as a member of a relevant authority in respect of his breaches of paragraphs 6 and 7 of the Code for a period of five months and in respect of his breaches of paragraphs 11 and 14 of the code a period of two months concurrently. In addition, it recommended that the Monitoring Officer re-emphasised the requirement for members to register interests as/when they arise and that the duty does not arise annually.

APW/001/2021-022/CT

Taff's Well and Nantgarw Community Council, Rhondda Cynon Taf County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Taff's Well and Nantgarw Community Council by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, and failing to observe the law and the authority's rules governing the claiming of expenses and allowances.

The councillor was a member of a community council and required additional support to carry out his role due to his disabilities. He sought payment of expenses that he said were required to enable him to carry out his role, but the clerk to the Council refused the applications on the basis that she was not satisfied with the evidence provided. This led to a series of emails in which the councillor questioned the clerk's qualifications, doubted the justification for her salary, demeaned the work that she undertook and ultimately referred to her as part of an **"axis of evil"** that was bullying him. When the Chair became involved, the councillor sent abusive emails to him. During the PSOW's investigation, the councillor interfered with the evidence of a witness and wrote a letter (ostensibly from the witness) seeking to resile from the evidence given to the ombudsman.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the 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 4c);
- 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));
- You must (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member (paragraph 9(a)).

The Case Tribunal unanimously concluded that the councillor was to be disqualified from acting as a member of a relevant authority for a period of 12 months.

APW/005/2021-022/CT

Abertillery and Llanhillieth Community Council, Blaenau Gwent County Borough Council

The allegations were that the councillor had breached the Code of Conduct for Abertillery and Llanhillieth Community Council by failing to carry out his duties with due regard to equality of opportunity for all, by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, and by failing to comply with the requests of the PSOW during his investigation.

The councillor was a member of a community council, as was another councillor who had a hearing impairment. The accused councillor was overtly rude to his colleague about her disability on more than one occasion and tried to make it hard for her to participate in meetings. In addition, during the PSOW's investigation the accused councillor was found to have failed to engage or co-operate with the investigation (including failing to answer written questions) and this was not due to his health as asserted.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the 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 4c);
- 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 comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers (paragraph 6(2)).

The Case Tribunal unanimously concluded that the councillor was to be suspended for a period of ten months from acting as a member of a relevant authority. It further recommended that the accused councillor undertook further training on the Code of Conduct and Equality and Diversity, and provided a full written apology to his colleague in respect of his breaches of the Code towards her.

[APW/006/2021-022/CT](#)

[Caernarfon Royal Town Council and Gwynedd Council](#)

The allegations were that the councillor had breached the Code of Conduct for Caernarfon Royal Town Council and Gwynedd Council by bullying or harassing others, by failing to show respect and consideration for others, conducting himself in a manner reasonably regarded as bringing the office or authority into disrepute, using his position to secure an advantage, and failing to co-operate with the PSOW's investigation.

The councillor was unhappy about the activities of a colleague during the COVID-19 pandemic. He posted comments on Facebook to denigrate him and to suggest his parents received free meals, was found to have assaulted a third party when that individual was out leafletting with the other councillor, and repeatedly threatened and claimed to have issued court proceedings for compensation and/or injunctive relief and/or a harassment complaint with the Police against the councillor to whom he objected. During the PSOW's investigation, the councillor was found to have failed to engage. While the accused councillor asserted that he was unwell, no medical evidence was provided either to the APW or the PSOW.

The Case Tribunal found by unanimous decision that the councillor had failed to comply with the 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 4c);
- 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 comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers (paragraph 6(2));
- 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)).

The Case Tribunal unanimously concluded that the councillor was to be suspended from acting as a member of a relevant authority for a period of nine months.

## Appeals

During the reporting period, 2 appeal tribunals took place arising from a decision made by a local government standards committee. In addition, permission to appeal was refused by the President in respect of one appeal.

A summary of the cases determined by the APW appears below:

### APW/002/2021-022/AT Denbighshire County Council

An appeal was received against the determination of the standards committee that the councillor had breached Denbighshire County Council's Code of Conduct and should be suspended from office for 2 months.

The proceedings arose from the councillor's decision to become involved in a personal dispute between a constituent and another individual in a car park. The councillor decided to investigate and attempt to view the CCTV, and visited the individual's workplace and spoke to her colleagues about the matter. He later wrote a letter of complaint to the individual's employer about the incident in the car park.

The standards committee found that the councillor had breached the Code of Conduct in respect of the following paragraphs:

- You must not use bullying behaviour or harass any person (paragraph 4c);
- 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)).

Permission to appeal was given by the President only in respect of the issue as to whether the actions of the councillor constituted harassment and whether the sanction imposed should be reviewed. The Appeal Tribunal by unanimous decision found that the actions of the councillor did constitute a course of harassment, that this was a breach of the Code, and endorsed the two month suspension sanction imposed by the standards committee.

APW/003/2021-022/AT  
Wrexham Council

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

The proceedings arose from the councillor's decision to complain about a member of a public to her employer (and copied into the relevant regulator) because she had complained about him to the PSOW.

The standards committee found that the councillor had breached the Code of Conduct in respect of the following paragraphs:

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

Permission to appeal was given by the President as whether the sanction imposed should be reviewed; the councillor in part relied upon the two-month suspension given by Denbighshire County Council's standards committee for similar conduct. The Appeal Tribunal by unanimous decision found that the sanction should be reviewed and recommended that a two-month suspension should be considered by the standards committee. On referral back to the standards committee, it declined to change the sanction and the suspension of three months came into effect.

## Section 4 – Business Priorities

In this section:

- Business priorities for 2022-2023

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 2022-2023

- Plan and deliver an all-members training event;
- Continue to deliver an effective and efficient service, meeting key performance indicators;
- Pandemic permitting, return as appropriate to “face to face” hearings and attend key outreach events;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, action any changes as required by the legislature.

## Section 5 – Expenditure

In this section:

- Expenditure for 2021-2022

### Expenditure for 2021-2022

Content	Amount
Members Fees and Expenses (proceedings and training)	£41,370
Tribunal events (hearing and other costs)	£7,780
<b>Total</b>	<b>£49,151</b>

Rounded to the nearest £1

**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN****SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 11  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF DIRECTOR OF CORPORATE SERVICES

**INDEPENDENT REMUNERATION PANEL FOR WALES: DRAFT ANNUAL REPORT 2023 TO 2024****THIS REPORT IS FOR INFORMATION**

REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES

REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH WATKINS

**SUMMARY**

This report brings to Members' attention the relevant sections of the Independent Remuneration Panel for Wales Draft Annual Report that relate to payments to Members of Welsh Fire & Rescue Authorities.

**RECOMMENDATIONS**

That Members note the extract of the Independent Remuneration Panel's Draft Annual Report, attached at Appendix 1, which provides details of payments to Members of Welsh Fire & Rescue Authorities.

**1. BACKGROUND**

- 1.1 As Members will be aware, the Local Government (Wales) Measure 2011 gave powers to the Independent Remuneration Panel for Wales to determine and review the remuneration of Members of Local Authorities, National Park Authorities, Fire & Rescue Authorities and Town & Community Councils.
- 1.2 The Panel is also required to produce an Annual Report and consult on this prior to its issue. The Panel has now issued its draft report, and the relevant extracts for Members are attached at Appendix 1 to this report.

**2. ISSUE**

- 2.1 Members will note that the proposals for Councillors' remuneration for Fire & Rescue Authority duties recommend an increase for the 2023/24 municipal year of salaries as follows:
  - Basic salary £2,482 per annum

- Senior Salary £6,222 per annum (inclusive of basic salary)
- Chair Of Fire Authority Salary £11,282 per annum (inclusive of basic salary)

2.2 South Wales Fire & Rescue Authority received and noted the draft report of the Independent Remuneration Panel for Wales on 19 December 2022.

### 3. IMPLICATIONS

#### 3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	Yes

3.1.1 There are no equality impacts arising directly as a result of the draft report as the report is intended to apply to all Elected Members equally regardless of protected characteristics. Additionally, the Independent Remuneration Panel will be responsible for undertaking their own equality risk assessment of the implications of their report prior to its publication in February 2023.

#### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	Yes
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	No
Service Policy	No
National Policy	No

3.2.1 The annual increase for allowances for Members of South Wales Fire & Rescue Authority and the independent members is contained within the proposed revenue budget which was approved for consultation on 19 December 2023.



### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

## 4. RECOMMENDATION

- 4.1 That Members note the extract of the Independent Remuneration Panel's Draft Annual Report, attached at Appendix 1, which provides details of payments to Members of Welsh Fire & Rescue Authorities.

<b>Contact Officer:</b>	ACO Geraint Thomas Director of Corporate Services
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<b>Background Papers</b>	<b>Date</b>	<b>Source / Contact</b>
Independent Remuneration Panel for Wales: draft annual report 2023 to 2024	06 October 2022	<a href="https://www.gov.wales/sites/default/files/pdf-versions/2022/10/4/1665049109/independent-remuneration-panel-wales-draft-annual-report-2023-2024.pdf">https://www.gov.wales/sites/default/files/pdf-versions/2022/10/4/1665049109/independent-remuneration-panel-wales-draft-annual-report-2023-2024.pdf</a>

<b>Appendices</b>	
Appendix 1	Independent Remuneration Panel for Wales: draft annual report 2023 to 2024

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Llywodraeth Cymru  
Welsh Government

## APPENDIX 1

### REPORT

# Independent Remuneration Panel for Wales: draft annual report 2023 to 2024

Sets the range and level of payments for the financial year  
2023 to 2024.

**First published:** 6 October 2022

**Last updated:** 6 October 2022

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**Summary of deliberations and determinations**

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# Introduction

Welcome to the draft report of the Independent Remuneration Panel for Wales, setting the decisions and determinations on pay, expenses and benefits for elected members of principal councils, community and town councils, national park authorities and fire and rescue authorities for implementation from April 2023.

This is my first report as Chair of the Panel, having been appointed in June this year. I would like to take this opportunity to thank John Bader, the outgoing Chair, for his service over many years and who led the Panel through 2 significant pieces of work last year, the Independent 10 year review of the Panel and restoring the link between elected members salaries and average earnings in Wales. I also thank Joe Stockley for his service and I am pleased to announce the appointment of Bev Smith in June this year. Saz Willey, Vice Chair, and Ruth Glazzard have continued to lead the work of the Panel during this period of change and I thank them for the support they have given both Bev and I, as new members.

This year the Panel has continued to focus on and take forward the recommendations from the 10 year review. There are 4 key strands to this work, review the way we work, set out a 3 year strategy for the Panel, improve how we communicate and engage with stakeholders and build a robust evidence base to inform decisions.

We have embarked on the recommended effectiveness review of the way we work and have started developing our longer-term strategy with a panel development day in August. We have agreed that our mission should be to deliver a fair and accountable reward framework for Wales' communities to have their voices heard within our democracy. We will use our expertise and professionalism to build trusting, sustainable partnerships to inform our work and deliver the changes Wales needs.

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We aim to improve the way we communicate and engage both with our immediate stakeholders and the general public. As a first step we now publish a summary of our monthly meetings on our website, but recognise there is much more to do. We aim to improve the accessibility and ease of use of our website and develop it into a more useful resource tool for people. We intend it to be an easy to use store of information on our determinations, and, building on our current frequently asked questions page, develop our guidance on how all decisions should be applied.

Whilst we are an independent body, we will continue to work collaboratively with key stakeholders engaged in promoting participation in local democracy. We look forward to participating in the forthcoming events hosted by the Welsh Government and Minister for Finance and Local Government, to share knowledge, experience, and best practice across a range of subjects related to the role of a councillor to develop a shared understanding of how we can take collective action to increase diversity in local democracy.

The Welsh Government will soon be publishing research which explores the barriers to standing for elected office and the changing role of the councillor and is developing a programme of work around the role of the community and town councils.

The Panel has decided that this year will be a year of consolidation. Major changes were put in place last year, and a significant uplift in salary levels was agreed. We wish to allow time for last year's determinations to bed in and to allow the Panel to continue its development of a research and evidence base to inform future decisions and move to a longer term planning cycle. This report reflects that decision.

During the past few years, we have been considering the structure of our reports and how we can make them more accessible to all. We have concluded that much of the information published replicates previous years, often without significant change. For this report we decided to focus on the changes made as

a result of the proposals. We have therefore decided that the majority of the content set out in previous reports will be removed from the report and placed on the Panel's website. We will make arrangements for those who are unable to access the website.

This change has significantly reduced the size of the report and made it more manageable to navigate. This approach is also in line with our efforts to respect the challenges facing us in protecting our planet.

This is a work in progress, and we would be interested in your views about this approach and so have specifically asked for some feedback as part of our consultation questions at the end of the report.

## Panel Membership

- Frances Duffy, Chair
- Saz Willey, Vice Chair
- Ruth Glazzard
- Bev Smith

Detailed information about the members can be found on the [Panel website](#).

## Role and responsibilities of the Panel

### Role of the Panel

The Panel is responsible for setting the levels and arrangements for the remuneration of members of the following organisations:

- principal councils, county and county borough councils

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- community and town councils
- national park authorities
- fire and rescue authorities
- corporate joint committees

The Panel is an independent body and is able to make decisions about:

- the salary structure within which members are remunerated
- the type and nature of allowances to be paid to members
- whether payments are mandatory or allow a level of local flexibility
- arrangements in respect of family absence
- arrangements for monitoring compliance with the Panel's decisions

The Panel is an independent organisation and the organisations listed above are required, by law, to implement the decisions it makes.

The Panel is also consultee for proposed changes to the pay of principal council Chief Executives.

## Principles

The work of the Panel is underpinned by a set of principles which guides its approach, methodology and decision making. They are:

- **upholding trust and confidence:** citizens rightly expect that all those who choose to serve in local authorities uphold the public trust by embracing the values and ethics implicit in such public service
- **simplicity:** the Framework is clear and understandable
- **remuneration:** the Framework provides for payment to members of authorities who carry a responsibility for serving their communities. The level of payment should not act as a barrier to taking up or continuing in the post
- **diversity:** democracy is strengthened when the membership of authorities



adequately reflects the demographic and cultural make-up of the communities such authorities serve

- accountability: taxpayers and citizens have the right to receive value for money from public funds committed to the remuneration of those who are elected, appointed or co-opted to serve in the public interest
- fairness: the Framework will be capable of being applied consistently to members of all authorities within the Panel's remit as a means of ensuring that levels of remuneration are fair, affordable and generally acceptable
- quality: the Panel recognises that the complex mix of governance, scrutiny and regulatory duties incumbent upon members requires them to engage with a process of continuous quality improvement
- transparency: transparency of members' remuneration is in the public interest

## Summary of deliberations and determinations

### Methodology

Each year the Panel engages with members of the bodies for which it sets remuneration levels, officers within those organisations, clerks, Welsh Local Government Association, One Voice Wales and the Society for Local Council Clerks. It does this through a range of meetings which, at the moment, remain mostly online. The Panel will continue with these discussions. They provide an opportunity for the Panel to explore views about existing arrangements, the impact decisions are having on individuals, how the arrangements are operating in practice and any issues or concerns individuals wish to raise. It also provides an opportunity for discussion about emerging situations which the Panel may need to consider in respect of its decision making.

The draft report is published widely and members of the public are encouraged to and have provided valuable feedback and we welcome this.

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The Panel also considers feedback from the publishing of the Annual Report in the previous year. The changes made in last year's Report, in particular the uplift in the basic salary, seem to have been well received by stakeholders. The issues raised with the Panel have all been centred around the detail of the Determinations, asking for guidance on how they should be applied or asking for points of clarification where the text of the Report was unclear.

The Panel has therefore agreed to review the format and structure of the main Report and make better use of the Panel website to provide information and guidance.

The Panel has a duty to set payments that are fair and that encourage and enable democratic participation. It must also take account of affordability and acceptability.

In making its determinations for this Draft Report, the Panel considered a range of benchmarks, including past, current and projected indices and actual figures and the known and forecast extent and impact of multiple economic and social factors. These included post Brexit and COVID work environments and the cost of living, energy and climate crises.

The Panels proposals are consulted on and following consideration of the views received in response to its consultation the Panel makes its final determinations which are published each year in its Annual Report.

## **Panel's Determinations for 2023 to 2024**

### **Basic salary for elected members of principal councils: determination 1**

The basic salary, paid to all elected members, is remuneration for the

responsibility of community representation and participation in the scrutiny, regulatory and related functions of local governance. It is based on a full time equivalent of 3 days a week. The Panel regularly reviews this time commitment and no changes are proposed for 2023 to 2024.

Last year the Panel reset the basic salary to align with the **2020 Annual Survey of Hours and Earnings (ASHE)** published by the Office of National Statistics. This reduced the imbalance that had arisen between the basic salary of members of principal councils and the average salaries of their constituents. The change took effect from the May 2022 local elections. The rationale for this significant step can be found in last year's **Annual Report** and a detailed explanatory paper setting out the historical context and analysis is available on the **Panel's website**.

Building on this decision the Panel has determined that for the financial year 1 April 2023 to 31 March 2024 it is right to retain a link between the basic salary of councillors and the average salaries of their constituents. The basic salary will be aligned with 3 fifths of the all Wales **2021 ASHE**, the latest figure available at drafting. This will be £17,600. This will represent a 4.76% increase in the basic salary.

## **Salaries paid to Senior, Civic and Presiding members of principal councils: determination 2**

The limit on the number of senior salaries payable (“the cap”) will remain in place. At the 2022 local elections boundary reviews changed the number of members for some councils. The Panel adjusted the senior salary cap for these councils in its 2022 to 2023 Annual Report. As there are no further changes for 2023 to 2024, the maximum number of senior salaries payable within each council remains as set out in the **2022 to 2023 Report**.

All senior salaries include the basic salary payment. The different levels of

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additional responsibility of and between each role is recognised in a banded framework. The framework was revised last year after a review of differentials and market comparators. No changes to banding are proposed this year. Early next year the Panel will gather evidence from principal councils to explore whether and how the workload of elected members has changed.

The **ASHE 2021** increase applies to the role element of Band 1 and Band 2 salaries, leader, deputy leader and executive members.

To complete the last year's realignment of the framework, Band 3 and Band 4 salary holders will receive a small increase to the role element of their pay and the role element of Band 5 pay will remain frozen. The increase in basic salary will apply.

The salary of a leader of the largest (Group A) council will therefore be £66,000. All other payments have been decided in reference to this and are set out in Table 1.

## **Table 1: salaries payable to basic, senior, civic and presiding members of principal councils**

### **Group A**

- Cardiff
- Rhondda Cynon Taf
- Swansea

## Description

	Remuneration
<b>Basic salary (payable to all elected members)</b>	£17,600
<b>Band 1: leader</b>	£66,000
<b>Band 1: deputy leader</b>	£46,200
<b>Band 2: executive members</b>	£39,600
<b>Band 3: committee chairs, civic head and presiding officer (if remunerated)</b>	£26,400
<b>Band 4: leader of the largest opposition group</b>	£26,400
<b>Band 5: leader of other political groups and deputy civic head</b>	£21,340
<b>Band 5: deputy presiding member (no role payment)</b>	£17,600

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## Group B

- Bridgend
- Caerphilly
- Carmarthenshire
- Conwy
- Flintshire
- Gwynedd
- Newport
- Neath Port Talbot
- Pembrokeshire
- Powys
- Vale of Glamorgan
- Wrexham

### Description

	Remuneration
<b>Basic salary (payable to all elected members)</b>	£17,600
<b>Band 1: leader</b>	£59,400
<b>Band 1: deputy leader</b>	£41,580
<b>Band 2: executive members</b>	£35,640

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	<b>Remuneration</b>
<b>Band 3: committee chairs, civic head and presiding officer (if remunerated)</b>	£26,400
<b>Band 4: leader of the largest opposition group</b>	£26,400
<b>Band 5: leader of other political groups and deputy civic head</b>	£21,340
<b>Band 5: deputy presiding member (no role payment)</b>	£17,600

### **Group C**

- Blaenau Gwent
- Ceredigion
- Denbighshire
- Merthyr Tydfil
- Monmouthshire
- Torfaen
- Isle of Anglesey

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## Description

	Remuneration
<b>Basic salary (payable to all elected members)</b>	£17,600
<b>Band 1: leader</b>	£56,100
<b>Band 1: deputy leader</b>	£39,270
<b>Band 2: executive members</b>	£33,660
<b>Band 3: committee chairs, civic head and presiding officer (if remunerated)</b>	£26,400
<b>Band 4: leader of the largest opposition group</b>	£26,400
<b>Band 5: leader of other political groups and deputy civic head</b>	£21,340
<b>Band 5: deputy presiding member (no role payment)</b>	£17,600

There are no further changes to the payments and benefits paid to elected members and therefore all other Determinations from 2022 to 2023 still stand and should be applied in 2023 to 2024, including those covering:

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- travel and subsistence
- care and personal assistance
- sickness absence
- corporate joint committees
- assistants to the executive
- additional salaries and job sharing arrangements
- co-opted Members

### **Salaries for joint overview and scrutiny committees: determination 3**

The salary of a chair of a Joint Overview and Scrutiny Committee will be £8,800.

The salary of vice-chair will be £4,400.

There are no other changes.

### **Payments towards costs and expenses of members of community and town councils: determination 4**

Last year the Panel carried out a major review of the remuneration framework for community and town councils and undertook a comprehensive consultation exercise with the sector. The Framework was updated then and this year the Panel has decided to make limited but important changes.

The Panel recognise that all members of community and town councils necessarily spend time working from home on council business. This was the case before and during COVID and is continuing. As a result, members have extra domestic costs and also need office consumables.

The Panel considers members should not be out of pocket for carrying out their duties. It therefore proposes the following.

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## **Basic payment for extra costs of working from home**

All councils must pay their members £156 a year (equivalent to £3 a week) towards the extra household expenses (including heating, lighting, power and broadband) of working from home.

## **Set payment for consumables**

Councils must either pay their members £52 a year for the cost of office consumables required to carry out their role, or alternatively councils must enable members to claim full reimbursement for the cost of their office consumables.

It is a matter for each council to make and record a policy decision in respect of when and how the payments are made and whether they are paid monthly, yearly or otherwise. The policy should also state whether and how to recover any payments made to a member who leaves or changes their role during the financial year.

The level of payments is set out in Table 2.

**Table 2: payments to community and town councils**

Type of payment	Group	Requirement
Extra costs payment	1 (Electorate over 14,000)	Mandatory for all members
Senior role	1 (Electorate over 14,000)	Mandatory for 1 member; optional for up to 7
Mayor or chair	1 (Electorate over 14,000)	Optional: up to a maximum of £1,500
Deputy mayor or deputy chair	1 (Electorate over 14,000)	Optional: up to a maximum of £500
Attendance allowance	1 (Electorate over 14,000)	Optional
Financial loss	1 (Electorate over 14,000)	Optional
Travel and subsistence	1 (Electorate over 14,000)	Optional
Costs of care or personal assistance	1 (Electorate over 14,000)	Mandatory
Extra costs payment	2 (Electorate over 10,000 to 13,999)	Mandatory for all members
Senior role	2 (Electorate over 10,000 to 13,999)	Mandatory for 1 member; optional up to 5

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Mayor or chair	2 (Electorate over 10,000 to 13,999)	Optional: up to a maximum of £1,500
Deputy mayor or deputy chair	2 (Electorate over 10,000 to 13,999)	Optional: up to a maximum of £500
Attendance allowance	2 (Electorate over 10,000 to 13,999)	Optional
Financial loss	2 (Electorate over 10,000 to 13,999)	Optional
Travel and subsistence	2 (Electorate over 10,000 to 13,999)	Optional
Costs of care or personal assistance	2 (Electorate over 10,000 to 13,999)	Mandatory
Extra costs payment	3 (Electorate over 5,000 to 9,999)	Mandatory for all members
Senior role	3 (Electorate over 5,000 to 9,999)	Optional up to 3 members
Mayor or chair	3 (Electorate over 5,000 to 9,999)	Optional: up to a maximum of £1,500
Deputy mayor or deputy chair	3 (Electorate over 5,000 to 9,999)	Optional: up to a maximum of £500
Attendance allowance	3 (Electorate over 5,000 to 9,999)	Optional

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Financial loss	3 (Electorate over 5,000 to 9,999)	Optional
Travel and subsistence	3 (Electorate over 5,000 to 9,999)	Optional
Costs of care or personal assistance	3 (Electorate over 5,000 to 9,999)	Mandatory
Extra costs payment	4 (Electorate over 1,000 to 4,999)	Mandatory for all members
Senior role	4 (Electorate over 1,000 to 4,999)	Optional up to 3 members
Mayor or chair	4 (Electorate over 1,000 to 4,999)	Optional: up to a maximum of £1,500
Deputy mayor or deputy chair	4 (Electorate over 1,000 to 4,999)	Optional: up to a maximum of £500
Attendance allowance	4 (Electorate over 1,000 to 4,999)	Optional
Financial loss	4 (Electorate over 1,000 to 4,999)	Optional
Travel and subsistence	4 (Electorate over 1,000 to 4,999)	Optional
Cost of care or personal assistance	4 (Electorate over 1,000 to 4,999)	Mandatory

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Basic costs payment	5 (Electorate less than 1,000)	Mandatory for all members
Senior role	5 (Electorate less than 1,000)	Optional up to 3 members
Mayor or chair	5 (Electorate less than 1,000)	Optional: up to a maximum of £1,500
Deputy mayor or deputy chair	5 (Electorate less than 1,000)	Optional: up to a maximum of £500
Attendance allowance	5 (Electorate less than 1,000)	Optional
Financial loss	5 (Electorate less than 1,000)	Optional
Travel and subsistence	5 (Electorate less than 1,000)	Optional
Cost of care or personal allowance	5 (Electorate less than 1,000)	Mandatory

There are no further changes to the payments and benefits paid to elected members and therefore all other Determinations from 2022 to 2023 still stand and should be applied in 2023 to 2024, including those covering:

- payments for undertaking senior roles
- contributions towards costs of care and personal assistance
- reimbursement of travel and subsistence costs
- compensation for financial loss

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- attendance allowance
- co-opted members

## **Payments to national parks authorities and fire and rescue authorities: determination 5**

The 3 national parks in Wales: Brecon Beacons, Pembrokeshire Coast and Snowdonia were formed to protect spectacular landscapes and provide recreation opportunities for the public. **The Environment Act 1995** led to the creation of a national park authority (NPA) for each park.

National park authorities comprise members who are either elected members nominated by the principal councils within the national park area or are members appointed by the Welsh Government through the Public Appointments process. The Welsh Government appointed and council nominated members are treated equally in relation to remuneration.

The 3 fire and rescue services (FRAs) in Wales: Mid and West Wales, North Wales and South Wales were formed as part of local government re-organisation in 1996. FRAs comprise elected members who are nominated by the Principal Councils within each fire and rescue service area.

Payments will increase as a result of the uplift proposed for elected members of principal councils. Therefore, there will also be an uplift of 4.76% in the basic salary element.

The remuneration for Chairs will remain linked to a Band 3 senior salary of principal councils. Therefore there will be a small increase to the role element of their pay. Deputy Chairs, Committee Chairs and other senior roles will remain linked to Band 5. Therefore their role element of pay will remain frozen. The increase in basic salary will apply. Full details of the levels of remuneration for members of national park authorities and fire and rescue authorities, is set out in

Table 3.

**Table 3: payments to national parks authorities and fire and rescue authorities****National parks authorities**

	<b>Amount</b>
Basic salary for ordinary member	£4,964
Chair	£13,764
Deputy chair (where appointed)	£8,704
Committee chair or other senior post	£8,704

**Fire and rescue authorities**

	<b>Amount</b>
Basic salary for ordinary member	£2,482
Chair	£11,282
Deputy chair (where appointed)	£6,222

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	<b>Amount</b>
Committee chair or other senior post	£6,222

---

All other Determinations for 2022 to 2023 will still stand and should be applied in 2023 to 2024, including those covering:

- contributions towards costs of care and personal assistance
- reimbursement of travel and subsistence costs
- compensation for financial loss
- co-opted members
- restrictions on receiving double remuneration where a member holds more than one post

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**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN****SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 12  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF HEAD OF CORPORATE SUPPORT

**PUBLIC SERVICE OMBUDSMAN FOR WALES – ANNUAL REPORT AND ACCOUNTS 2021/22****THIS REPORT IS FOR INFORMATION**

REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES

REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH WATKINS

**SUMMARY**

This report presents Members with extracts from the Annual Report and Accounts for the Public Services Ombudsman for Wales for the year ending 31 March 2022, in respect of Members' Code of Conduct matters.

**RECOMMENDATIONS**

It is recommended that Members note the content of the report.

**1. BACKGROUND**

- 1.1 The Annual Report is a combined report addressing matters relating to the dual functions of the Public Services Ombudsman for Wales (the Ombudsman). The link to the full annual report can be found at <https://www.ombudsman.wales/wp-content/uploads/2022/08/ANNUAL-REPORT-2021-22-Signed-Version.pdf>. The full report is attached at Appendix 1. The Executive Summary of the report can be found at Appendix 2. An easy read version of the annual report 'What happened between 2021-22' is attached at Appendix 3. Additionally, the Ombudsman has published a video of their Annual Report 2021/22 (7 minutes) which can be seen on this [link](#).

**2. ISSUE**

- 2.1 There are three main roles to the role of the Ombudsman, which are to investigate complaints about public service providers in Wales, consider complaints about breaches of the Code of Conduct by Elected Members, and driving systemic improvement of public services.

- 2.2 With reference to Members' Code of Conduct complaints, the Ombudsman may consider complaints about the behaviour of:
- local government (such as county borough and community councils)
  - the National Health Service (such as Health Boards, Trusts, GPs and dentists)
  - registered social landlords (housing associations)
  - Welsh Government and its sponsored bodies
- 2.3 The Annual Report details the performance of the Ombudsman office over the year, provides an update on developments that may have occurred and delivers any key messages arising from their work carried out during the year.
- 2.4 The Annual Report sets out the workloads that have been dealt with by the Ombudsman office during 2021/22 and breaks this workload down into the number of enquiries received and the number of complaints received. It also breaks down the complaints by those received about public services (public body complaints) and those received in relation to Code of Conduct complaints, which this Committee is concerned with.
- 2.5 The number of Code of Conduct complaints in 2021/22 was 294, a decrease of 5% compared to the previous year. Complaints about Members of National Parks (5) and Fire Authorities (0) have remained low.

<b>Body</b>	<b>2021/22</b>	<b>2020/21</b>	<b>2019/20</b>
Town and Community Councils	171	167	135
County and County Borough Councils	114	138	96
National Parks	5	2	0
Fire Authorities	0	1	0
Police and Crime Commissioners and Panels	4	0	0
<b>Total</b>	<b>294</b>	<b>308</b>	<b>231</b>

- 2.6 Of those complaints, the highest number once again related to the promotion of equality and respect (51% compared to 55% in 2020/21); 11% related to the failure to disclose or register interests (14% last year); 5% related to accountability and openness (4% in 2020/21); 9% related to integrity (down from 12% last year); and 8% related to duty to uphold the law (8% last year). 20 cases were referred to the local Standards Committee (11) or the Adjudication Panel for Wales (9), a 100% increase on the previous year.

<b>Subjects (new complaints)</b>	<b>2021/22</b>	<b>2020/21</b>	<b>2019/20</b>
Accountability and openness	5% (↑)	4%	11%
Disclosure and registration of interests	11%(↓)	14%	17%
Duty to uphold the law	9%(↑)	8%	7%
Integrity	8%(↓)	12%	10%
Objectivity and propriety	11%(↑)	5%	2%
Promotion of equality and respect	51%(↓)	55%	49%
Selflessness and stewardship	5%(↓)	2%	3%

- 2.7 Further statistical data is contained within the Annual Report. However, in general terms, the nature of the complaints were again weighted towards those around equality and respect, followed by failure to register or declare interests and objectivity and propriety; then duty to uphold the law and then issues relating to integrity, accountability and openness and selflessness and stewardship, which once again largely mirrors the position of the previous years.
- 2.8 All the Code of Conduct complaints received were assessed against a two-stage test. Considering whether:
- a complaint is supported by direct evidence that is suggestive that a breach has taken place.
  - it is in the public interest to investigate that matter. Public interest can be described as “something which is of serious concern and benefit to the public”.
- 2.9 Although the Ombudsman still refer a very small proportion of all Code of Conduct complaints received, it was more than half of those they decided to investigate. It was also twice as many the previous year and the highest number of referrals that they have made since 2012/13.
- 2.10 The Ombudsman are concerned about this increase. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy.

### **3. IMPLICATIONS**

### 3.1 Community and Environment

Equality, Diversity, and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	No
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	No
Service Policy	No
National Policy	No

### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

## 4. RECOMMENDATIONS

4.1 It is recommended that Members note the content of the report.

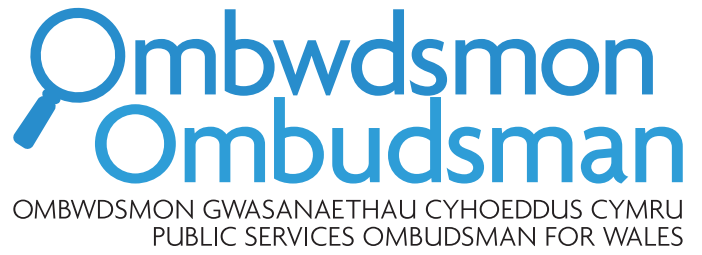
<b>Contact Officer:</b>	Sarah Watkins Head of Corporate Support
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<b>Background Papers</b>	<b>Date</b>	<b>Source / Contact</b>
Annual Report and Accounts 2021/22 of the Public Services Ombudsman for Wales for the year ended 31 March 2022		<a href="https://www.ombudsman.wales/wp-content/uploads/2022/08/ANNUAL-REPORT-2021-22-Signed-Version.pdf">https://www.ombudsman.wales/wp-content/uploads/2022/08/ANNUAL-REPORT-2021-22-Signed-Version.pdf</a>
Public Services Ombudsman for Wales Annual Report and Accounts Executive summary 2021/2021		<a href="https://www.ombudsman.wales/wp-content/uploads/2022/08/2021-22-ANNUAL-REPORT-2021-22-EXECUTIVE-SUMMARY.pdf">https://www.ombudsman.wales/wp-content/uploads/2022/08/2021-22-ANNUAL-REPORT-2021-22-EXECUTIVE-SUMMARY.pdf</a>
Public Services Ombudsman for Wales Annual Report 2021/22 in 7 minutes		<a href="https://www.youtube.com/watch?v=RILRSbjRy60">https://www.youtube.com/watch?v=RILRSbjRy60</a>

<b>Appendices</b>	
Appendix 1	Annual Report and Accounts 2021/22
Appendix 2	Annual Report and Accounts 2021/22 Executive Summary
Appendix 3	Easy Read - Public Services Ombudsman for Wales Annual Report - What happened between 2021-2022

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# Annual Report and Accounts

2021 / 2022

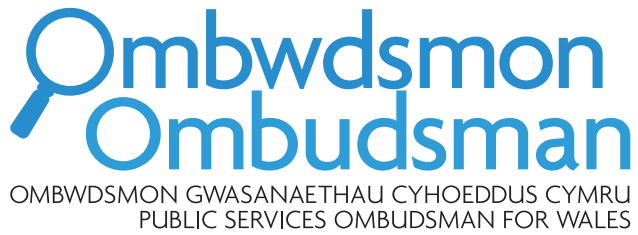


We can provide a summary of this document in accessible formats, including Braille, large print and Easy Read. To request, please contact us:

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ

Tel: 0300 790 0203

Email: [communications@ombudsman.wales](mailto:communications@ombudsman.wales)



## Annual Report and Accounts 2021/22

of the Public Services Ombudsman for Wales  
for the year ended 31 March 2022

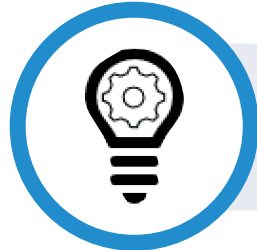
Laid before the Welsh Parliament  
under paragraphs 15, 17 and 18 of Schedule 1  
of the Public Services Ombudsman (Wales) Act 2019.

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We have continued to deliver for those who have suffered injustice during the pandemic.



We are proactive, helping the public sector improve during challenging times.



We embrace learning and welcome feedback



We are accountable and transparent about our performance and use of resources.



We strive to ensure and promote equality, diversity and inclusion.



We pull together and support each other.

## Foreword

I promise that this is definitely my last foreword as PSOW!

I became Ombudsman in August 2014. Since then, we have:

- dealt with almost 38,000 enquiries
- considered over 18,000 complaints

- completed just over 2400 investigations
- issued 50 public interest reports
- issued 5 thematic reports and
- published our first 'Own Initiative' investigation report.

I am particularly pleased at the impact our recommendations, including those in the thematic report on Out of Hours care in hospitals, have had. Taken together, our work has made a significant contribution to putting things right for individuals as well as improving services for everyone in Wales.

The past year has been very challenging. Our core function is to consider complaints – about public service providers, or about councillors breaching the Code of Conduct. This year we received over 30% more cases than last year – we also closed a record number of complaints.

We investigated many more complaints about the Councillors' Code of Conduct. Compared to last year, we referred twice as many complaints to Standards Committees and to the Adjudication Panel for Wales. This is still only a small proportion of our complaints about breaches of the Code of Conduct – but we are concerned about this increase.

I am immensely proud that, during my time at the helm, we have succeeded in securing legislative



reform of the office. We now have some of the most comprehensive powers to proactively drive improvement in public services among ombudsman offices in Great Britain.

We made huge progress with those proactive powers during the year:

- We received over two hundred oral complaints
- Our Complaints Standards role now extends to local government, health bodies and some housing associations
- We trained approximately 4000 staff members at these bodies to improve how they handle complaints.

We published our first 'own initiative' investigation report in October, 'Homelessness Reviewed: an open door to positive change'. The report included many recommendations to improve support to some of the most vulnerable service users in Wales. We were also able to use our proactive powers to extend an investigation into a prostate cancer case to include a further 16 affected patients in North Wales.

Our staff worked hard during the year to manage our increasing caseload and promote improvement. But these pressures took their toll. For example, we did not always manage to consider complaints as quickly as we wanted and our staff experienced increased stress because of the increased caseload. As we emerge into the 'new normal' after the pandemic, we consider it likely that our caseload will remain high and it may

continue to increase. We are working hard to find ways to improve how we can deal with cases even more efficiently, but also how we can better support our staff.

When I started this job, I publicly called for innovation to deliver improvement for my office and for public services in Wales. I am incredibly grateful to the Senedd and to my staff for making that ambition a reality. I am also very aware that any legacy from my period in office will be dwarfed by the legacy of the pandemic on public services. I am especially concerned that almost 25% of the Welsh population are on NHS waiting lists - this will prove a huge challenge over the next few years for the NHS and could also impact our work at PSOW.

I wish my staff, my successor Michelle Morris, public services and all our stakeholders all the best for the future.

## **Nick Bennett**

Public Services Ombudsman for Wales

March 2022

As I start my term as Ombudsman I would like to pay tribute to Nick Bennett, my predecessor and to the staff in the Office for their hard work in continuing to deliver services through what has undoubtedly been the most challenging couple of years for the public sector in Wales.

Our public services continue to work under considerable pressure as we all find a way to return to new and improved working arrangements, while coping with the issues that remain a legacy from the pandemic, including backlogs and waiting times for some services and the recruitment and retention of a first class workforce.

Public bodies across Wales have continued to work with us to ensure that we can properly deal with issues when they go wrong and that we all learn lessons from that experience.

During my term in office, I want to build on those good working relationships to ensure our public services in Wales emerge stronger and that service users continue to receive proper redress when things go wrong.

In the autumn, I will share my priorities for the next three years and consult on my first Strategic Plan.

## **Michelle Morris**

Public Services Ombudsman for Wales

20 July 2022





## The impact of COVID-19

The COVID-19 pandemic has affected our office, as it has all other public bodies in Wales. We had to adjust how we organise our work, what demands we placed on bodies in our jurisdiction and how we managed the expectations of our complainants.

However, some of the most striking effects of the pandemic on our office to date have been the dramatic changes in our caseload since 2020.

During 2020/21, the first year of the pandemic, for the first time in many years we saw a drop in the number of new cases reaching our office. We believe that this reflected public sentiment and support for the NHS, with members of the public reportedly being reluctant to complain about a service that was already under strain.

However, this grace period appears to have ended. We have never received more complaints than in 2021/22. Our cases suggest that members of the public are increasingly impatient and distressed by services that, in their view, are failing to meet their needs. As this Report shows, complaints about health boards have increased and the number of new complaints about county councils and social landlords have increased significantly.

Throughout this Report, we explain how this significant increase in our caseload affected our service.

We usually compare our annual performance to the previous year, but 2020/21 was an exceptional year. In this Report, we take the unusual step of comparing our public services, Code of Conduct and review caseload also with 2019/20, the last 'normal' year on record. We think that by doing that we present more accurately and fairly the trends in our work and the performance of public bodies in Wales.

This Report includes key statistics about our complaints trends this year. To be as transparent as possible, we publish more detailed data [on our website here](#).

## About us

### We have three main roles.

- **We investigate complaints about public services.**
- **We consider complaints about councillors breaching the Code of Conduct.**
- **We drive systemic improvement of public services.**

### We are independent of all government bodies and our service is impartial and free of charge.

#### Complaints about public service providers

Our first role is to consider complaints about services provided by devolved public bodies in Wales, including:

- local government (such as county and community councils)
- the National Health Service (such as Health Boards, Trusts, GPs and dentists)
- registered social landlords (housing associations)
- Welsh Government and its sponsored bodies

We can also consider complaints about privately arranged or funded social care and palliative care services. In some specific circumstances, we can look into aspects of privately funded healthcare.

We examine complaints that people have been treated unfairly or have received a bad service through some fault of the service provider.

When we find that something has gone wrong, we can recommend redress, or changes in process, to ensure that service providers do not repeat their mistakes.

**“**The service was excellent, and the outcome achieved was positive. I could not have achieved this outcome without assistance from the ombudsman’s office. They helped me to achieve a sense of fairness.**”**

## Code of Conduct complaints

Our second role is to consider complaints that local councillors have breached their authorities' Codes of Conduct, which set out the recognised principles of behaviour that elected members should follow in public life.

We can consider complaints about elected members of:

- county and county borough councils
- community and town councils
- fire authorities
- national park authorities
- police & crime panels.

Where we find evidence suggesting that the Code has been breached, we refer these cases to a Standards Committee or the Adjudication Panel for Wales for decision.

“I recognise the understanding and professionalism shown in your contribution to the hearing and deliberation on its outcome. Please accept my gratitude for your management of the case.

We are a “prescribed person” under the Public Interest Disclosure Act for raising whistleblowing concerns about breaches of the Code of Conduct by members of local authorities. We explain this role in more detail in [the Whistleblowing section of the Report](#).

## Systemic improvement of public services

Our third role is to drive broader improvement of public services. The Senedd approved more proactive powers to do this under the Public Services Ombudsman (Wales) Act 2019 (the PSOW Act 2019).

We can investigate on our own initiative even if we have not received a complaint. We talk about this power in more detail in [the Own Initiative section of this Report](#).

We can also set complaints standards for public bodies in Wales. We can publish a statement of principles for complaints handling by public bodies and set model complaints handling procedures for them. We monitor the performance of public bodies in complaint handling, including reviewing their complaint handling data. We also provide training to public bodies on good complaint handling. The [Complaints Standards section of this Report](#) explains how we have taken this power forward.

“We are very grateful for the time taken to deliver such high-quality training to the Health Board.

## Our Key Performance Indicators

We check how well we perform against a set of measures or Key Performance Indicators (KPIs). Below we explain how we aimed to perform and how we did. We discuss these figures in more detail throughout this Report.

Performance indicator	Target	2021/22	2020/21	2019/20
<b>Our decision times in complaints about public bodies</b>				
decision that a complaint is not within jurisdiction within 3 weeks	90%	90%	94%	95%
decision taken not to investigate a complaint (after making initial enquiries) within 6 weeks	90%	83%	85%	92%
where we seek Early Resolution, decision within 9 weeks	90%	88%	88%	94%
decision to investigate and start investigation within 6 weeks of the date sufficient information is received	80%	69%	65%	67%
<b>Complaints about public bodies which are investigated – cases closed</b>				
cases closed within 12 months	85%	76%	52%	81%
<b>Our decision times in complaints about the Code of Conduct</b>				
decision taken not to investigate within 6 weeks.	90%	98%	90%	93%
decision to investigate and start investigation within 6 weeks of the date sufficient information is received	90%	80%	76%	86%
<b>Code of Conduct complaints which are investigated - cases closed</b>				
cases closed within 12 months	90%	67%	50%	88%
<b>Customer satisfaction*</b>				
we are easy to find	91 / 98%	80 / 95%	85 / 97%	91 / 98%
we offer a helpful service	63 / 83%	60 / 86%	62 / 91%	63 / 83%
we clearly explain our process and decision	65 / 89%	65 / 91%	63 / 96%	65 / 89%
<b>How bodies fulfil our recommendations ('compliance')</b>				
proportion of recommendations due and complied with by public service providers	-	81%	85%	72%
number of compliance visits	7	6	7	4












Performance indicator	Target	2021/22	2020/21	2019/20
<b>Human resources</b>				
completion of the appraisal process	-	100%	100%	100%
employee response to staff survey	-	84%	N/A**	92%
<b>Staff training</b>				
proportion of staff achieving target number of days of continuing professional development	-	72%	77%	93%
<b>Staff attendance</b>				
average number of days lost through sickness per member of staff	-		3.0	9.0
proportion of working days lost through staff sickness	-	2.70%	1.14%	3.40%
proportion of working days lost through short term sickness	-	1.04%	0.62%	1.0%
proportion of working days lost through long term sickness	-	1.70%	0.52%	2.40%
<b>Financial performance</b>				
cash repaid to Welsh Consolidated Fund	<3%	2.3%	0.4%	1.0%
unit cost per case	£540	£491***	£695	£521
support costs as percentage of budget	<5%	4.2%	4.1%	4.3%
external Audit Opinion on Accounts	Unqualified accounts	Unqualified accounts	Unqualified accounts	Unqualified accounts
internal Audit Opinion on internal controls	Substantial Assurance	Substantial Assurance	Substantial Assurance	Substantial Assurance
<b>Complaints about us</b>				
number of complaints received	N/A	32	26	36
number of complaints upheld	N/A	12	5	7
<b>Sustainability</b>				
waste (kg)	26,000	9,205	3,988	26,996
electricity (kWh)	104,000	73,754	71,668	104,521

\* We present these results for all respondents (the first figure) as well as those satisfied with the outcome (the second figure).

\*\* We carry out our staff survey every two years, so there was no staff survey in 2020/21.

\*\*\* Figures reported for unit costs reflect the approach introduced in 2020/21. The target and previous years' figures have been restated using the same approach, so figures are meaningful.

## Snapshot of the year

- April 2021**  22 County and County Borough Councils become subject to complaint handling standards.
- May 2021**  We publish new Code of Conduct Guidance for members of local authorities in Wales.
- June 2021**  Health Boards and Trusts become subject to complaints handling standards.
- July 2021**  We issue a public interest report about [Cwm Taf Morgannwg UHB](#) – and our Annual Report 2020/21.
- August 2021**  We launch a new [Our Findings tool](#). We issue a public interest report about [Betsi Cadwaladr UHB & Denbighshire Council](#).
- September 2021**  We publish complaints standards data for the first time  
We issue public interest reports about [Betsi Cadwaladr UHB](#) and [Bridgend Council](#).
- October 2021**  We launch the findings of our first Own Initiative investigation  
We issue [a public interest report about Hywel Dda UHB](#)  
We appear before the Senedd's Finance Committee.
- November 2021**  We publish our third [Equality and Human Rights Casebook](#).
- December 2021**  We issue [a public interest report about Cardiff and Vale UHB](#).
- January 2022**  We publish [revised Principles of Good Administration and Principles of Good Records Management](#).
- February 2022**  We publish [a public interest report about Cardiff Council](#).
- March 2022** **20** We refer the 20th complaint about the conduct of councillors in the year and say farewell to outgoing Ombudsman Nick Bennett.

## A guide to some terms used in this Report

### Case

Any matter raised with us by a member of the public.

### Caseload

All cases that we handle.

### Enquiry

A case when someone contacts us with a general query but is not yet ready to complain – or we know straight away that we cannot look into their issue. If that happens, we try to offer advice or direct people to another organisation that can help.

### Pre-assessment

A Code of Conduct case which is not a duly made complaint. People who complain to us about the Code of Conduct need to sign a declaration to say that the details of the complaint are true and they are aware that their details and the complaint will be shared with the member. If they do not sign that declaration, we close the case at the preassessment stage.

### Complaint

A case where we have enough information to suggest that it is something we are able consider.

### Outcome

Our decision after we have considered a complaint.

### Intervention

An outcome in complaints about public services when we decided that something has gone wrong and things must be put right. This could be by making recommendations or agreeing early resolution or settlement of a complaint.

### Referral

An outcome in Code of Conduct complaints where we refer a matter to a Standards Committee or the Adjudication Panel for Wales. We generally do this for cases which involve serious breaches of the Code..

## Strategic Aim 1: Deliver Justice

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We want our service to be fair, independent, inclusive and responsive to the needs of people who complain to us.





## Deliver Justice: our work at a glance

**8178**

We received 8178 new cases (enquiries, pre-assessments and complaints).

**32%** more than in 2020/21

**14%** more than in 2019/20

**2726**

We received 2,726 new complaints about public services.

**45%** more than in 2020/21

**22%** more than in 2019/20

**18%**

We found that something had gone wrong in 18% of complaints that we closed.

**1,131**

We issued 1131 recommendations to public service providers.

**294**

We received 294 new complaints about the Code of Conduct.

**5%** less than in 2020/21

**27%** more than in 2019/20

**20**

We referred 20 complaints about the Code of Conduct to the Standards Committees of the relevant local authorities, or the Adjudication Panel for Wales.

**100% more referrals than last year**

**7%**

We upheld only 7% of the review requests we received. Although there is always more work for us to do to improve, this gives us confidence in our decisions.

**43%** of our complainants that we asked were happy with our customer service - compared to 51% in 2020/21. However, people were much happier with our service when they were also happy with the outcome of their complaint.

**43%**

43% of people who responded to the national survey knew about us.

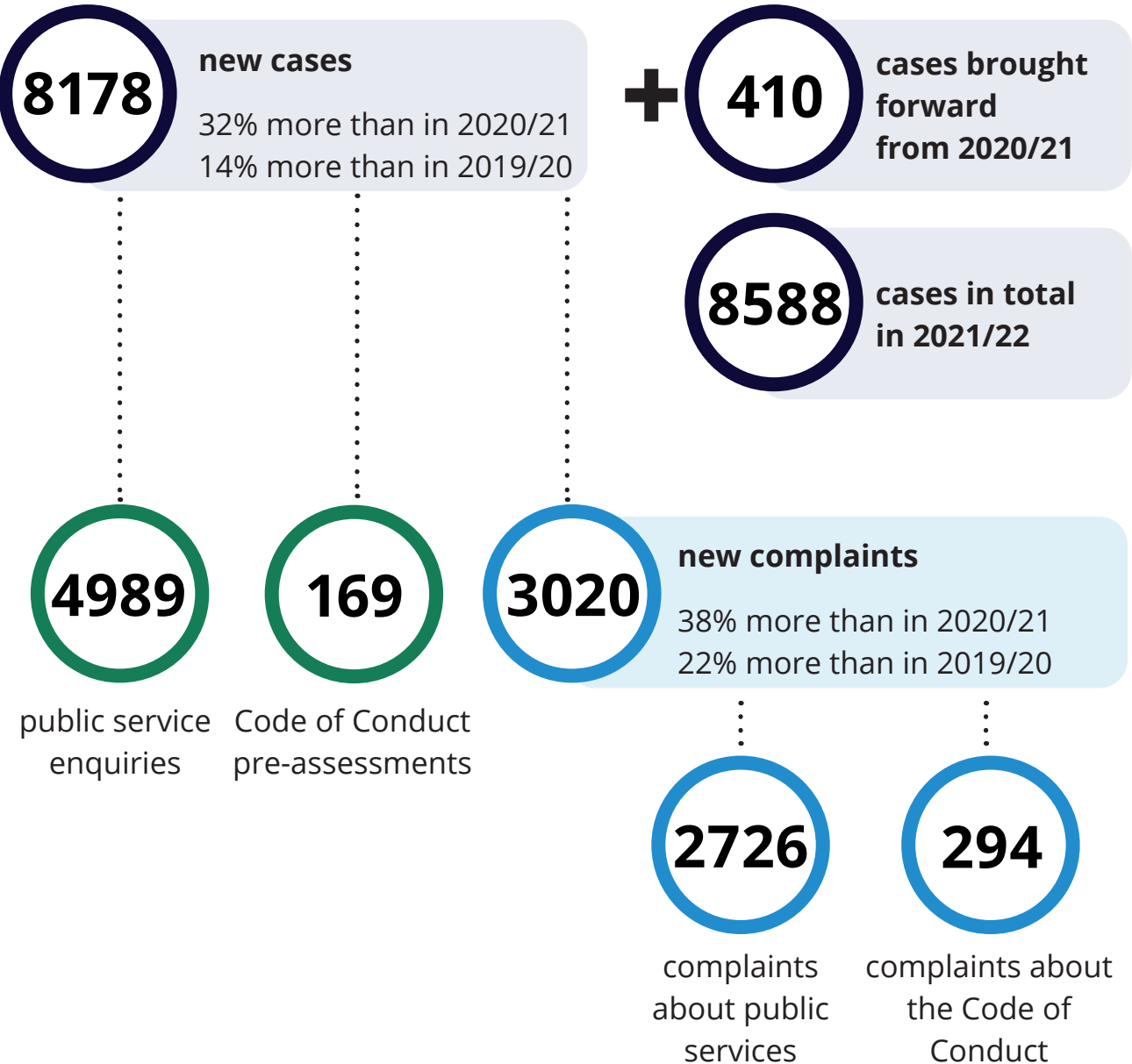
**221**

We accepted 221 oral complaints - and our first complaint in British Sign Language.

## Our caseload

### New caseload

Every year, thousands of people contact us about public services or about breaches of the Code of Conduct. This year, we received more new cases than ever before.



## Closed caseload

We also closed a record number of cases. We think that this high caseload will continue in 2022/23 and we are looking at ways to improve how we deal with cases even more efficiently.

**7983**

**closed cases**

28% more than in 2020/21  
11% more than in 2019/20

**605**

**cases carried over  
to 2022/23**

This is much more than in 2020/21 (410) and 2019/20 (453) because of the very high number of cases that we had to deal with this year.

**4953**

public service  
enquiries

**165**

Code of Conduct  
pre-assessments

**2865**

**closed complaints**

29% more than in 2020/21  
14% more than in 2019/20

**2584**

complaints  
about public  
services

**281**

complaints about  
the Code of  
Conduct

In the next sections of this Report, we focus on the main trends in **our complaints only**.

## Enquiry

This is when someone contacts us with a general query but is not yet ready to complain – or we know straight away that we cannot look into their issue. If that happens, we try to offer advice or direct people to another organisation that can help.

## Complaint

These are cases where we have enough information to suggest that it is something we are able to consider.

## Assessment

We assess if we can and need to investigate the complaint. For example, we check how much time has passed since the issue complained about.

If we decide that we cannot or should not consider the complaint, we will let the complainant know.

We can propose Early Resolution - suggest that a body takes action to resolve the issue without an investigation.

If we think that we need to get more evidence, or we cannot resolve the issue early, we will investigate.

## Investigation

We look into the complaint in more detail, and we gather additional evidence. We aim to complete our investigations within 12 months or sooner.

If we decide that nothing has gone wrong, we will issue a report and contact the complainant to explain our decision.

If we decide that something has gone wrong, we can:

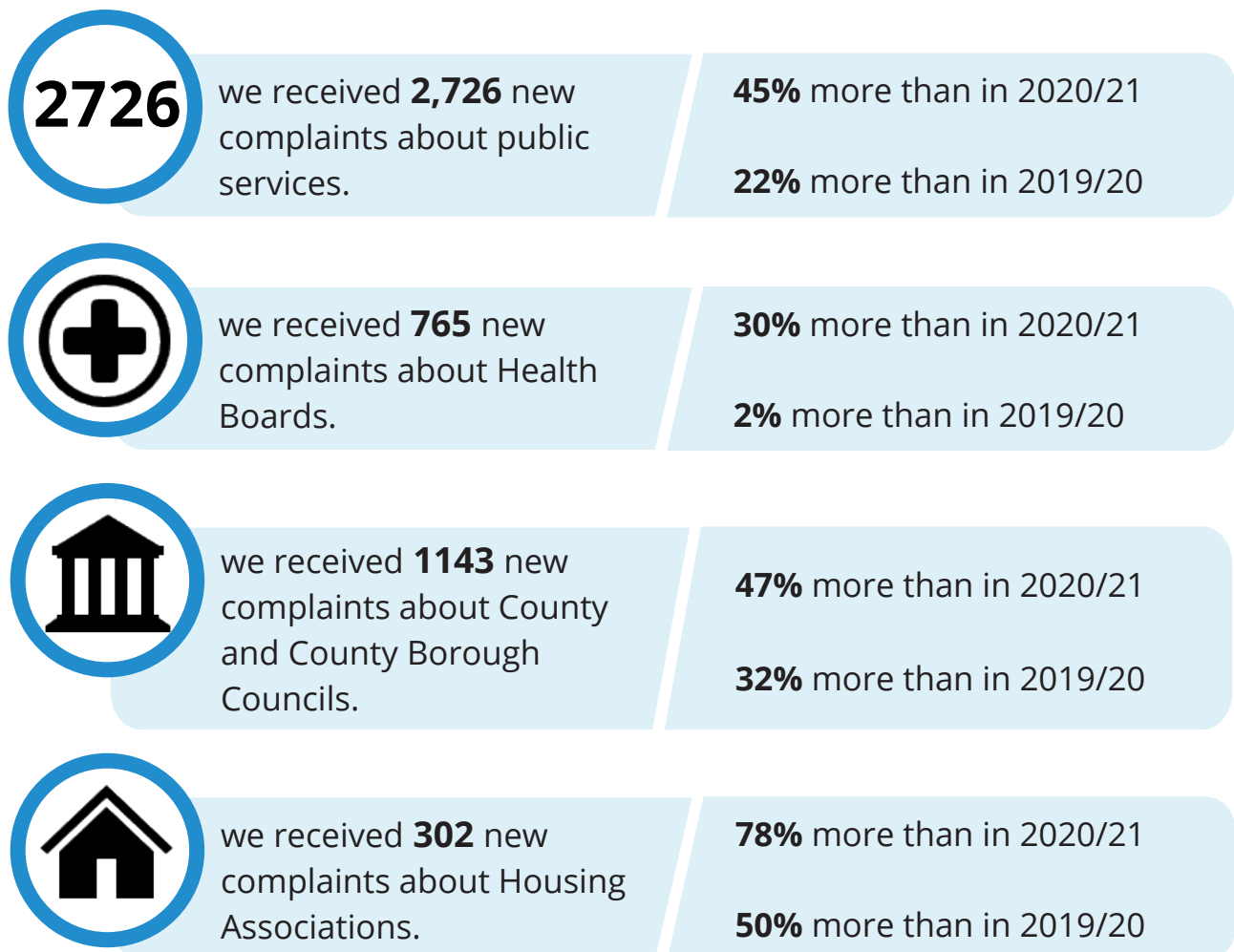
propose a voluntary settlement - similar to Early Resolution.

issue a report upholding the complaint.

# Complaints about public services

## New complaints about public services

We received a record number of complaints about public services, especially about County Councils and Housing Associations. Code of Conduct complaints are covered in a separate section of this Report. In 2021/22:



Find all the complaints data that we refer to in this Report [on our website here.](#)

## Which bodies people complained about

The main bodies that people complain to us about are Health Boards, County Councils and Housing Associations.



### Health Boards

We had 765 new complaints about Health Boards – 30% more than last year, but only 2% more than in 2019/20. This is an increase, but not as significant as for some other bodies in our jurisdiction.

Compared to **2020/21**, we noted increases in complaint numbers for all Health Boards apart from Powys Teaching Health Board.

However, when comparing to **2019/20**, several Health Boards were less complained about this year.

As in previous years, in 2021/22 the most complained about Health Board was Betsi Cadwaladr University Health Board. However, that Health Board was subject to 6% fewer complaints than in 2019/20.

We noted large increases in new complaints about Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board, compared to 2020/21 and 2019/20.

Health Board	2021/22	Change from 2020/21 %	Change from 2019/20 %	2020/21	2019/20
Aneurin Bevan UHB	142	+48%	+1%	96	140
Betsi Cadwaladr UHB	213	+16%	-6%	184	227
Cardiff and Vale UHB	89	+44%	-11%	62	100
Cwm Taf Morgannwg UHB	113	+31%	+41%	86	80
Hywel Dda UHB	88	+38%	-4%	64	92
Powys Teaching HB	10	-38%	-57%	16	23
Swansea Bay UHB	110	+39%	+21%	79	91
<b>All Health Boards</b>	<b>765</b>	<b>+30%</b>	<b>+2%</b>	<b>587</b>	<b>753</b>



## County and County Borough Councils

We had 1143 new complaints about County and County Borough Councils. This was a large increase – 47% more than last year, and 32% more than in 2019/20.

Compared to **2020/21**, all councils were subject to more complaints except for Blaenau Gwent, Conwy and Swansea. We noted some of the highest increases in new complaints for Neath Port Talbot, Carmarthenshire and Cardiff.

Compared to **2019/20**, all councils apart from Blaenau Gwent, Conwy, Swansea and Powys were subject to more complaints. For many councils we noted very significant increases in new complaints. Some of the highest increases related to Torfaen, Wrexham, Merthyr Tydfil, Neath Port Talbot and the Vale of Glamorgan.

You can find a detailed breakdown of our new complaints about County and County Borough Councils overleaf.



## Housing Associations

Finally, we had 302 new complaints about Housing Associations. The increase in new complaints about these bodies was the most significant – we received 78% more complaints about them than in 2020/21 and 50% more than in 2019/20.

No single organisation was responsible for a large proportion of these complaints. Over the last two years, we had complaints about around 40 different Housing Associations and we rarely received more than 10 complaints about one body.

Almost a half of the complaints that we received this year about housing associations - 46% - was about repairs and maintenance. This is higher than in previous years.

## Our new complaints about County and County Borough Councils:

County or Count Borough Council	2021/22	Change from 2020/21	Change from 2019/20	2020/21	2019/20
Blaenau Gwent	14	-7%	-18%	15	17
Bridgend	55	+77%	+62%	31	34
Caerphilly	60	+30%	+22%	46	49
Cardiff	182	+90%	+49%	96	122
Carmarthenshire	54	+100%	+29%	27	42
Ceredigion	52	+63%	+68%	32	31
Conwy	27	-16%	-7%	32	29
Denbighshire	34	+6%	+6%	32	32
Flintshire	99	+68%	+62%	59	61
Gwynedd	39	+30%	+5%	30	37
Isle of Anglesey	29	+61%	+12%	18	26
Merthyr Tydfil	27	+80%	+108%	15	13
Monmouthshire	20	0%	+25%	20	16
Neath Port Talbot	45	+137%	+105%	19	22
Newport	40	+29%	+3%	31	39
Pembrokeshire	39	+39%	+56%	28	25
Powys	55	+45%	-24%	38	72
Rhondda Cynon Taf	51	+28%	+31%	40	39
Swansea	71	-3%	-23%	73	92
Torfaen	18	+50%	+260%	12	5
Vale of Glamorgan	61	+56%	+103%	39	30
Wrexham	71	+65%	+115%	43	33
<b>All County and County Borough Councils</b>	<b>1143</b>	<b>+47%</b>	<b>+32%</b>	<b>776</b>	<b>866</b>

Find all the complaints data that  
we refer to in this Report  
[on our website here.](#)





## What people complained about

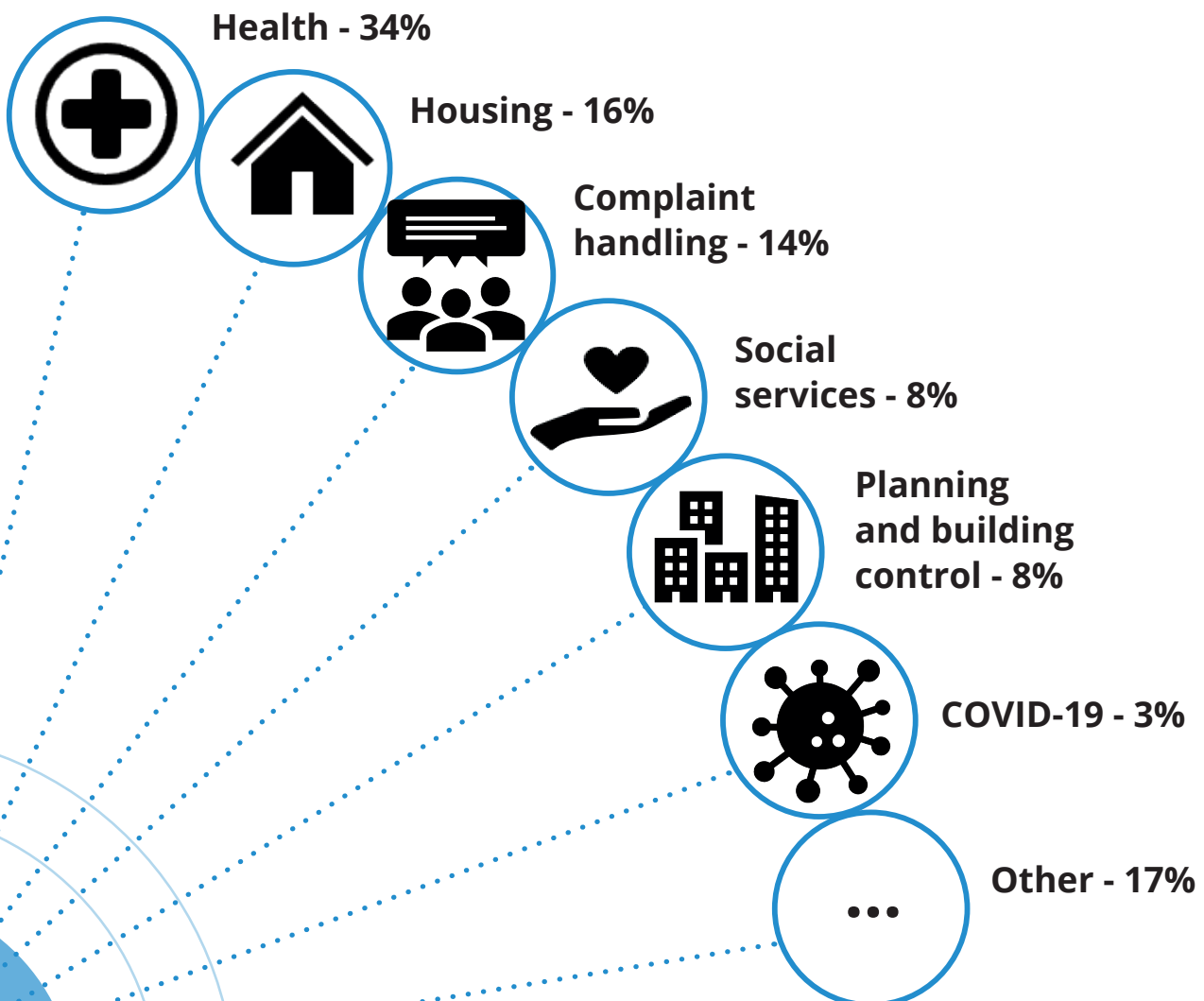
We report our new complaints showing the different public service providers they relate to. However, we also monitor and report on the subject of those complaints.

As in previous years, people complained to us most commonly about health services. 34% of our new complaints were about those services. Still, this was a lower proportion than in the last two years (39% in 2021/22 and 41% in 2019/20)

The proportion of complaints about problems with how public bodies handled complaints has increased to

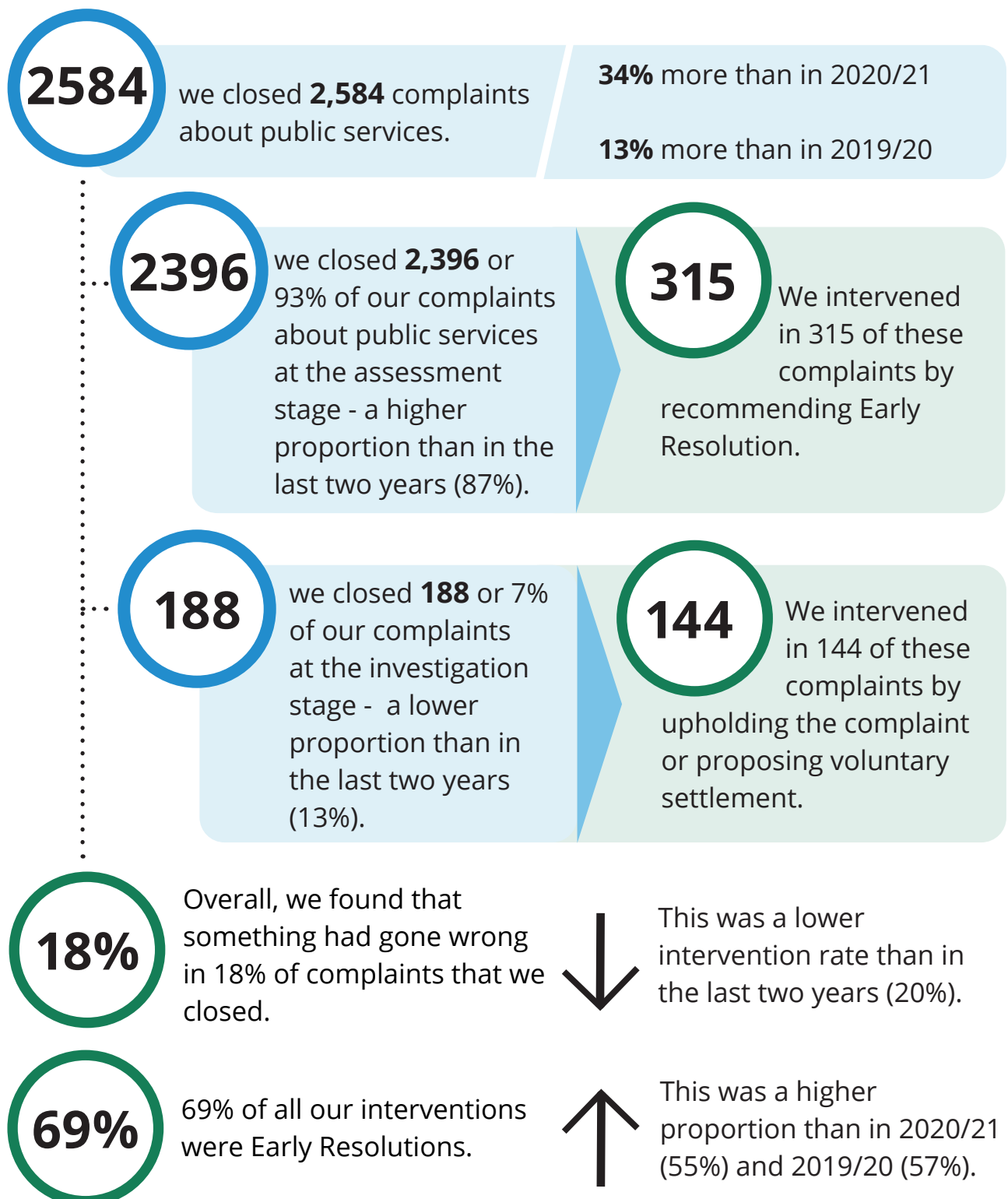
14% (from 12% in 2020/21 and 9% in 2019/20). We hope that we will start to see fewer of those complaints, as public bodies put into action the learning from our complaints standards training. However, we also know that many public bodies have received many more complaints this year. This can influence the standard of complaint handling.

This year, we recorded some complaints as being related to COVID-19. These are cases where the impact of the pandemic was central to the issue complained about. Around half of these complaints related to health services. However, these COVID-19 related complaints account for a small proportion of new complaints – around 3%.



## Closed complaints about public services

We closed a record number of complaints this year and we found that something had gone wrong in about the same proportion of complaints as over the last two years. In 2021/22:



## How many complaints we closed

This year, we closed 2,584 complaints about public services – 34% more than in 2020/21 and 13% more than in 2019/20.



### Our closed complaints: Health Boards

We closed 691 complaints about Health Boards. This was 10% more than last year, but 12% less than in 2019/20.

However, we have many more complaints about Health Boards still to close. 271, or just over a half of the complaints about public services that we still had open at the end of the year were about Health Boards. These are often the most complicated complaints, which take longest to investigate.

We have now closed all the outstanding complaints about the two former Health Boards - Abertawe Bro Morgannwg Health Board and Cwm Taf University Health Board.



### Our closed complaints: County and County Borough Councils

We also closed 1108 complaints about County and County Borough Councils – 42% more than last year and 26% more than in 2019/20.

## Complaint stages



By looking at what stage we closed complaints we can better understand the complaints reaching our office.

There are legal restrictions on the cases we can investigate. To investigate, the body or the matter complained about must be in our jurisdiction. We must know that the body complained about has had a reasonable chance to respond to the complaint. We also need to receive a complaint within 12 months of the events complained about (or within 12 months of the person complaining becoming aware of the issue).

Many of the complaints that we close at assessment stage are cases where the complaint was made to us too early, too late or where the complainant did not yet have the information that we needed to consider their complaint in more detail.

## When we closed complaints

### Assessments

This year, we closed 2396 or 93% of our complaints about public services at the assessment stage. This was a large proportion - higher than in the last two years (87%).

The main reason for closing complaints at that initial stage was because they were premature – they reached us before the relevant body could respond to them. That was the case for 32% of the complaints we rejected at assessment in 2021/22 (compared to 28% in 2020/21).

This could mean that people who contact us do not understand when we can consider their complaint.

However, it could also mean that the bodies in our jurisdiction are taking too long to consider the complaints themselves.

Other common reasons included that there was no evidence of maladministration or service failure (22%); and that we believed that we could have achieved little further for the complainant (12%).

### Investigations

We closed 188 or 7% of our complaints at the investigation stage. This was a lower proportion than in the last two years (13%).

This reflects, amongst other things, the fact that case numbers in 2020/21 were lower, with fewer investigations commenced that year and concluded in 2021/22.

We also had more investigations open at the end of the 2021/22 year. Of the complaints that we still had open at the end of the year, 217, or about 36% were being investigated – and 175 of these investigations were about health.

Unfortunately, this is a high number of complex cases that we simply did not manage to close during the year because of case complexity and our workload pressures.

As in previous years, over 80% of the investigations that we completed during the year related to health services. This tends to happen because complaints about health services are usually most complex. We often cannot make our decision on a health case without investigating in detail and commissioning expert clinical advice.

## Our interventions



The number of complaints that we received or closed does not tell us how well bodies in our jurisdiction deliver services. To understand that, it is more useful to look at how many complaints we intervene in.

Intervention means that we found that something had gone wrong and that the public body needed to put things right. We can intervene at assessment stage by suggesting an 'Early Resolution'. We can also intervene after we investigated - by publishing a report which upholds a complaint, or by suggesting a settlement between the body and the person complaining.

### When we intervened

We intervened in 459 or 18% of complaints about public services that we closed in 2021/22.

Although this is a higher number of interventions than in the last two years, it is a smaller proportion of our closed complaints overall - 18%, compared to 20% in the last two years.

In 315 of these complaints, or about 69% of all our interventions, we proposed an Early Resolution at the assessment stage.

This was a higher proportion than last year (55%) and in 2019/20 (57%).

Many people complaining to us want to see their case resolved quickly and investigations take significant time and resources. We are happy to have resolved more complaints using this approach.

In the other 144 complaints that we intervened in, we issued a report upholding the complaint or proposed a voluntary settlement.

**Our reference: 202105152**

Ms X complained about how Conwy County Borough Council managed a Gypsy Traveller site and how residents were reimbursed for their costs in carrying out routine maintenance. She was also concerned that the Council stated that officers would not deal directly with residents if they made allegations of racism. Although we saw evidence that the Council had been acting to address the situation, we were concerned that some of these matters had been ongoing for some time. We agreed with the Council that it would:

- provide a new draft management agreement to the residents and
- reimburse their outstanding costs.

**Our reference: 202103182**

Mr A complained to us that, in March 2020, Hywel Dda University Health Board cancelled his orthopaedic operation because of the pandemic and, by August 2021, he was yet to hear when his operation would happen. We acknowledged that the Health Board's services had been severely disrupted by the pandemic, causing delays. However, we were concerned that the Health Board did not update Mr A on his place on the waiting list. We agreed with the Health Board that it would:

- update Mr A and explain the situation
- confirm how it manages and reviews the orthopaedic waiting list to ensure that Mr A receives his operation as soon as possible.

**Our reference: 202103058**

Ms D complained that she had incurred a debt after the Student Loans Company (SLC) gave her wrong information about funding available for her tuition fees. Only after she started her course, SLC told her that the funding support was not available to her. Although Ms D left the course immediately, she still incurred a debt of tuition fees for a term. We decided that, since the information that Ms D received from SLC was not correct, SLC should reimburse Ms D for her time and trouble, as well as cover the tuition fee debt.



**Our interventions:  
Health Boards**

We intervened this year in a slightly lower proportion of complaints about Health Boards – 30%, compared to 33% last year and 31% in 2019/20.

We noted the highest intervention rates for Powys Teaching Health Board (50%). However, we closed this year only 6 complaints about that Health Board. The intervention rate for other Health Boards was between 34% (for Aneurin Bevan University Health Board) and 22% (for Cardiff and the Vale University Health Board).

Compared to **2020/21**, our intervention rate this year increased only for Powys

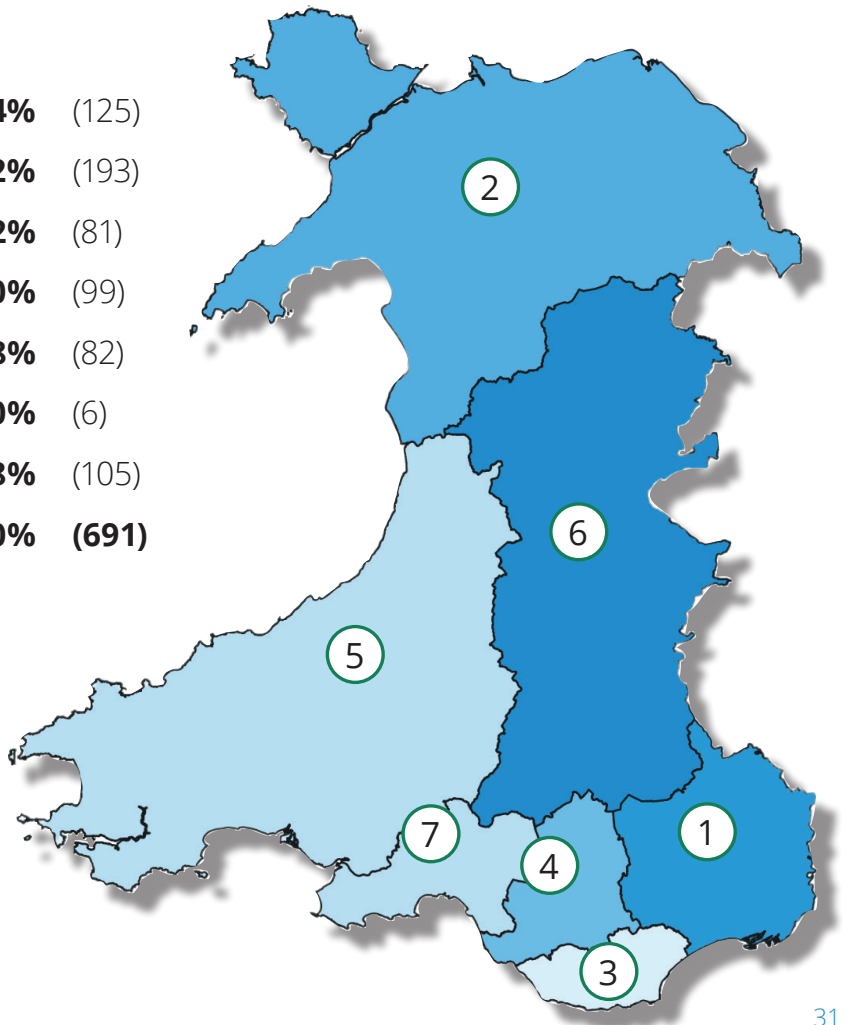
Teaching Health Board and Cwm Taf Morgannwg University Health Board.

However, compared to **2019/20**, we intervened in a higher proportion of complaints for several Health Boards. We noted the highest increases for Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board.

We notice that, this year, we received many more new complaints about Cwm Taf Morgannwg University Health Board and Swansea Bay University Health Board and, compared to 2019/20, we intervened in a much higher proportion of complaints as well. We will be working with these two Health Boards to understand why that was the case.

①	Aneurin Bevan UHB	<b>34%</b>	(125)
②	Betsi Cadwaladr UHB	<b>32%</b>	(193)
③	Cardiff and Vale UHB	<b>22%</b>	(81)
④	Cwm Taf Morgannwg UHB	<b>30%</b>	(99)
⑤	Hywel Dda UHB	<b>28%</b>	(82)
⑥	Powys Teaching HB	<b>50%</b>	(6)
⑦	Swansea Bay UHB	<b>28%</b>	(105)
	<b>All</b>	<b>30%</b>	<b>(691)</b>

Above, we list our rate of intervention this year for each Health Board. For context, the number of all the complaints about it that we closed is noted in brackets.





### Our interventions: County and County Borough Councils

We intervened this year in a slightly higher proportion of complaints about County and County Borough Councils – 14% compared to 13% over the last two years.

We recorded the highest intervention rates for Ceredigion County Council (28%) and Cardiff Council (28%). We intervened in the lowest proportion of complaints for Blaenau Gwent Council (0%) and Pembrokeshire Council (5%).

Compared to **2020/21**, our rate of intervention decreased for many councils, such as Conwy, Carmarthenshire, Pembrokeshire and Wrexham. However, for some councils, such as Ceredigion and Torfaen, we intervened in a much higher proportion of complaints.

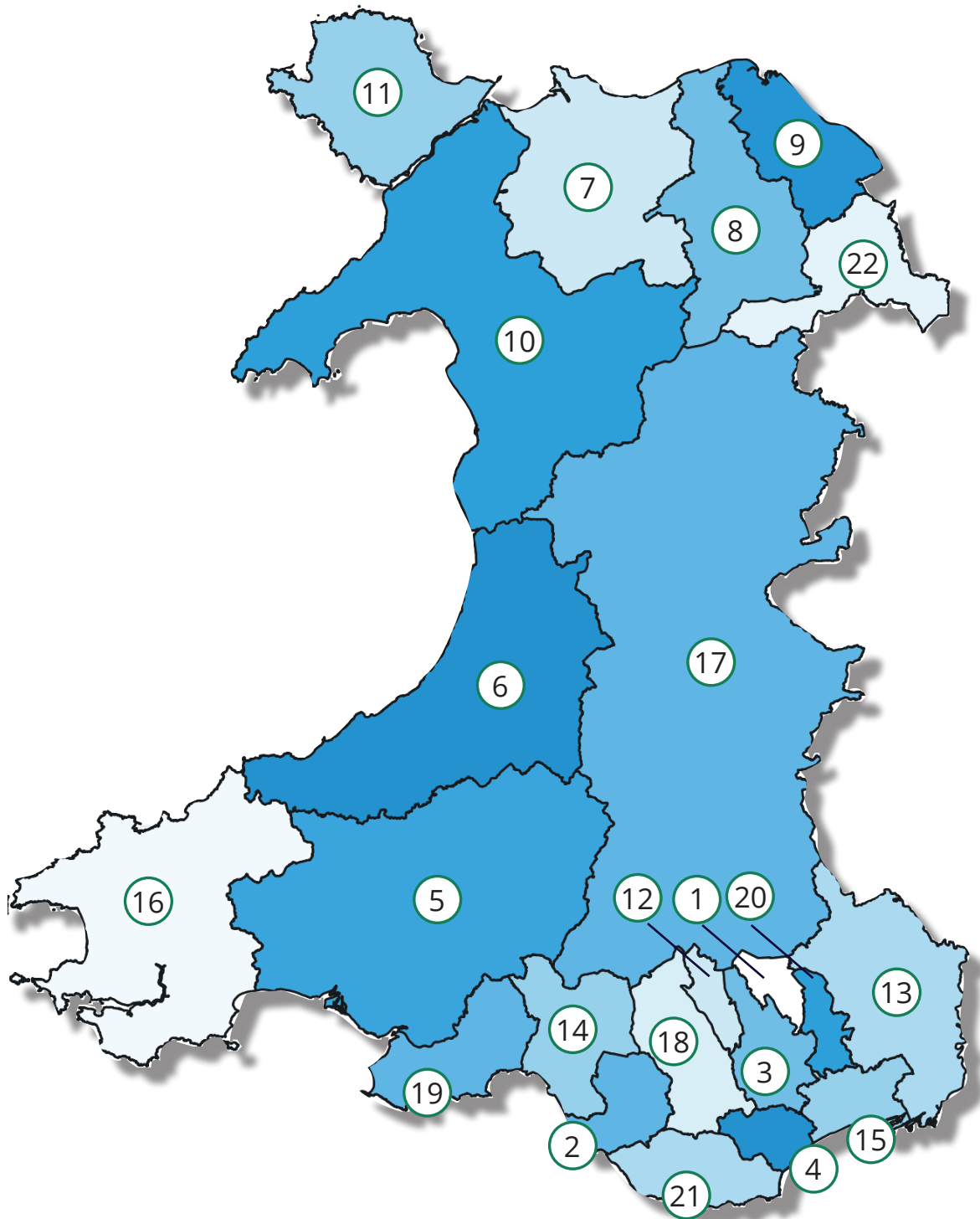
Compared to **2019/20**, our rate of intervention decreased for councils such as Pembrokeshire, Torfaen and Conwy. However, our rate of intervention rate increased noticeably for some councils, including Ceredigion, Bridgend and Cardiff.

During the year, we have continued to work with County Councils as part of our Complaints Standards role to help improve public services. We will continue this work during 2022/23, focusing on those councils for which our intervention rate was the highest.

Below, we list our rate of intervention this year for each Council. For context, the number of all the complaints about it that we closed is noted in brackets.

1	Blaenau Gwent	<b>0%</b>	(13)
2	Bridgend	<b>13%</b>	(54)
3	Caerphilly	<b>12%</b>	(58)
4	Cardiff	<b>28%</b>	(159)
	Cardiff Council- Rent Smart Wales	<b>6%</b>	(16)
5	Carmarthenshire	<b>14%</b>	(49)
6	Ceredigion	<b>28%</b>	(46)
7	Conwy	<b>8%</b>	(24)
8	Denbighshire	<b>12%</b>	(33)
9	Flintshire	<b>16%</b>	(94)
10	Gwynedd	<b>15%</b>	(41)
11	Isle of Anglesey	<b>11%</b>	(28)
12	Merthyr Tydfil	<b>8%</b>	(26)
13	Monmouthshire	<b>10%</b>	(21)
14	Neath Port Talbot	<b>11%</b>	(45)
15	Newport	<b>11%</b>	(36)
16	Pembrokeshire	<b>5%</b>	(40)
17	Powys	<b>13%</b>	(55)
18	Rhondda Cynon Taf	<b>7%</b>	(45)
19	Swansea	<b>13%</b>	(76)
20	Torfaen	<b>10%</b>	(20)
21	Vale of Glamorgan	<b>15%</b>	(62)
22	Wrexham	<b>6%</b>	(67)
	<b>All</b>	<b>14%</b>	<b>(1108)</b>





Find all the complaints data that we refer to in this Report [\*\*on our website here.\*\*](#)

## Recommendations

When we find that something has gone wrong with public services, we recommend that the body that provided those services puts things right. In 2021/22:

**1,131**

we issued 1131 recommendations to public service providers.

**£132k**

we recommended over £132,000 of financial redress – compared to £62,000 in 2020/21 and £80,000 in 2019/20.

Often, when things have gone wrong, most people simply want to receive a response and an apology, or to understand why things happened the way they did.

However, sometimes it is not enough to put things right for the person who complained. Many people who complain to us want to make sure that others will not have to face the same injustice.

We focus on putting things right for people who suffered injustice and on making sure that lessons are learned. However, we can also recommend that a body pays a person, for example for their time, their trouble, or for damage, loss or avoidable costs incurred. In 2021/22, 15% of our recommendations involved this kind of financial redress and we recommended over £132k of financial redress in total.

Of our recommendations,

- 20% were about an apology
- 12% were about the body responding to the initial complaint
- 6% were about the body explaining better why it acted the way it did
- 12% were about a reviews or changes to processes or a Quality Audit
- 11% were about the body letting its staff know about the issues we found
- 3% were about the body organising training for its staff.

## Our reference: 201904733



Ms R contacted us following a fall by her mother, Mrs A, when in the care of Betsi Cadwaladr University Health Board. Ms R complained that the Health Board did not take the right action to reduce the risk of Mrs A falling while she was walking to the bathroom. Among other issues, she also complained about how the Health Board investigated the incident and how it communicated with her and her mother. We did not uphold all aspects of Ms R's complaint. However, we agreed that it seemed that the Health Board did not do everything that it should have done to protect Mrs A from the fall. We also agreed that there were issues with the Health Board's investigation and communication. Our recommendations in this case included that the Health Board:

- apologises to Ms R and Mrs A and offers Mrs A £250 in recognition that it did not investigate the fall as it should have
- reminds its staff about the importance of clear communication, detailed record keeping and comprehensive investigations when incidents occur
- considers the incident, and how it affected Mrs A, under a process akin to Putting Things Right (PTR).

After it considered the incident as we recommended, the Health Board offered Mrs A significant financial compensation.

“Your recommendations will help others following down this difficult path and I am glad their journey may be easier as a result. We feel we now have had a voice and are not invisible anymore - that means a great deal. Thank you.

“We take comfort in the thought that all involved have learned some meaningful lessons and hopefully as a result of your investigation, no other family may experience the situation we found ourselves in.

## Compliance

Our recommendations aim to put things right, secure justice and improve services for the benefit of the public - not just for those who complain.

However, for these recommendations to have impact, public bodies must act on them.

When we make recommendations, we agree a date by which they need to comply and we ask them to send evidence that they have complied. If public bodies do not comply, we can issue a 'special report', which we lay before the Senedd. In 2021/22:

**81%**

we received evidence of compliance with 81% of recommendations due during the year – compared to 85% last year and 72% in 2019/20.


**0**

we did not issue any special reports.

This year, we revised our processes around checking and recording evidence that service providers complied with our recommendations. We have noticed that this work is beginning to show improvements in compliance performance.

This year, bodies in our jurisdiction gave us evidence that they complied with 81% of the recommendations that they were supposed to implement during the year. This is similar to 85% last year.

For the remaining 19% of recommendations, we are awaiting evidence from the bodies. We continue to follow this up.



**“Your professionalism, integrity and honesty have exceeded our expectations. Although there are no celebrations to be had, you have now provided the bitter sweet confirmation that our concerns were well founded.**

## Pre-assessment

A Code of Conduct case which is not a duly made complaint. People who complain to us about the Code of Conduct need to sign a declaration to say that the details of the complaint are true and they are aware that their details and the complaint will be shared with the member. If they do not sign that declaration, we close the case at the preassessment stage.

## Complaint

A case where we have enough information to suggest that it is something we are able consider.

## Assessment - our two-stage test

We apply our two-stage test:

- is there enough evidence that the councillor may have breached the Code of Conduct?
- is it in the public interest that we investigate?

If we decide that we cannot or should not consider the complaint, we will let the complainant know.

We can refer the complaint to the council's Clerk or Monitoring Officer to be resolved locally.

If we decide that the complaint passes our two-stage test, we will start an investigation.

## Investigation

We look into the complaint in more detail, and we gather additional evidence. We aim to complete our investigations within 12 months or sooner.

We may find that there was no breach of the Code of Conduct.

We may discontinue our investigation - or decide that we do not need to take any further action.

We refer the most serious breaches of the Code of Conduct to the Adjudication Panel for Wales or to Standards Committees.

# Complaints about the Code of Conduct

## New Code of Conduct complaints

Compared to last year, we received fewer complaints about the Code of Conduct. However, last year the volume of those complaints was unusually high. Compared to 2019/20, we received many more new Code of Conduct complaints. We again saw more complaints about members of Town and Community Councils. In 2021/22:

**294**

we received **294** new complaints about the Code of Conduct.

**5%** less than in 2020/21

**27%** more than in 2019/20



**171** complaints about councillors at Town and Community Councils.

**2%** more than in 2020/21

**27%** more than in 2019/20



**114** new complaints about councillors at County and County Borough Councils.

**17%** less than in 2020/21

**19%** more than in 2019/20



about a half of our new complaints about the Code of Conduct was about the promotion of equality and respect. This is a slightly lower proportion than in 2020/21.



Find all the complaints data that we refer to in this Report [on our website here.](#)

## Who people complained about

People complain to us mainly about the conduct of councillors at Town and Community Councils and County and County Borough Councils.

Compared to 2020/21, we had 2% more complaints about councillors at Town and Community Councils. 58% of

our new complaints about the Code of Conduct were about councillors at those bodies – a similar proportion as over the last two years. However, we had 17% fewer complaints about councillors at County and County Borough Councils.

The table below shows the number of our new complaints about councillors at different bodies.

Body	2021/22	2020/21	2019/20
Town and Community Councils	171	167	135
County and County Borough Councils	114	138	96
National Parks	5	2	0
Fire Authorities	0	1	0
Police and Crime Panels	4	0	0
<b>Total</b>	<b>294</b>	<b>308</b>	<b>231</b>

## What people complained about

We report the subject of the Code of Conduct complaints based on [the Nolan Principles](#), which are designed to promote high standards in public life.

The table below shows the proportion of complaints that we received for each subject.

Subject	2021/22	2020/21	2019/20
Accountability and openness	5%	4%	11%
Disclosure and registration of interests	11%	14%	17%
Duty to uphold the law	9%	8%	7%
Integrity	8%	12%	10%
Objectivity and propriety	11%	5%	2%
Promotion of equality and respect	51%	55%	49%
Selflessness and stewardship	5%	2%	3%



As in previous years, about a half of all new Code of Conduct complaints that we received was about 'promotion of equality and respect'.

Many cases that we categorise under 'respect' are lower-level complaints. These are the ones where we tend to decide quickly that we will not investigate, or where we recommend that the complaint is resolved locally.

However, some of these complaints and many of those that we categorise under 'equality' commonly involve more serious allegations of bullying or discrimination.

The 'two stage test' that we apply when deciding cases helps us focus our resources on such serious allegations.

### Our two-stage test

When we assess a complaint about the Code of Conduct, we use a two stage test to decide whether we should investigate it.

Firstly, we decide if we have enough evidence to suggest that there may have been a breach of the Code of Conduct.

Secondly, we decide if an investigation would be 'in the public interest'. Public interest can be described as something which is of serious concern or benefit to the public.

We will not investigate a complaint that does not pass this test.

### Our reference: 201906362



The complainant in this case alleged that a councillor from Abertillery and Llanhilleth Community Council had shown a disregard for the principle of equality. This was demonstrated by making comments about another member's hearing impairment and deliberately making it difficult for that member to participate in Council meetings.

We investigated this complaint and referred our report on this investigation to the Adjudication Panel for Wales. The Panel decided that the councillor breached 4 paragraphs of their Council's Code of Conduct, including by not showing respect and consideration for others and by using bullying behaviour. He also breached the Code for failing to engage with the investigation.

The Panel suspended the councillor for 10 months.

## Closed Code of Conduct complaints

Whilst we closed slightly fewer Code of Conduct complaints than last year, we investigated a much higher proportion. This year, we also referred twice as many complaints to the Adjudication Panel for Wales and Standards Committees as last year. This means that we saw many more potentially serious issues that could undermine public confidence in the people who represent them. In 2021/22:

**281**

we closed 281 complaints about the Code of Conduct.

**3%** less than in 2020/21

**20%** more than in 2019/20

**39**

we completed 39 investigations.

**63%** more than in 2020/21

**18%** more than in 2019/20

**20**

we referred 20 complaints to the Standards Committees of the relevant local authorities, or the Adjudication Panel for Wales. This was 100% more than last year.

### Code of Conduct referrals

*i*

Following consideration, we investigate only a small proportion of the Code of Conduct complaints we receive. This reflects that we will only investigate the most serious complaints to ensure that we use our resources wisely.

In cases where we investigate and have evidence to suggest there may have been a serious breach of the Code of Conduct, we refer the complaint and our findings to a local Standards Committee or to the Adjudication Panel for Wales. It is for those bodies to independently look at the evidence we have gathered, together with any information put forward by the councillor concerned and decide whether the councillor has breached the Code of Conduct and if so, what penalty, if any, should be imposed.

## Main trends

This year we closed 281 Code of Conduct complaints – 3% less than last year, but 20% more than in 2019/20.

We closed 86% of complaints after initial assessment. However, we closed investigations into 39 complaints - 63% more than last year and 18% more than the year before.

In 19 of the complaints that we investigated, we decided that either the member did not breach the Code of Conduct, or it was appropriate to discontinue the investigation or we did not need to take further action. The main reasons we might decide no further action is necessary are if the councillor has acknowledged their behaviour and apologised, or has taken steps to put things right.

However, we referred 20 of the complaints that we investigated to the Standards Committee of the relevant local authority, or the Adjudication Panel for Wales.

## Referrals

In 2021/22 we made:

- 11 referrals to Standards Committees
- 9 referrals to the Adjudication Panel for Wales.

We believe that it was necessary to refer those complaints to maintain public confidence in those holding public office.

Although this means that we still refer a very small proportion of all Code of Conduct complaints received, it was more than half of those we decided to investigate.

It was also twice as many as last year and the highest number of referrals that we made since 2012/13.

We are concerned about this increase. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy.

It takes time for Standards Committees and the Adjudication Panel for Wales to consider our referrals.

Of the 20 complaints we referred during 2021/22, they have, by 31 March 2022, considered 11.

Overleaf, we give examples of two decisions by these bodies on our referrals issued this year.

**The Adjudication Panel for Wales and Standards Committees upheld and found breaches in all our referrals they considered in 2021/22.**

**This gives us additional assurance that our process for considering these complaints is sound.**

**Our reference: 201903571**

In this complaint, the councillor represented Caerphilly County Borough Council as a member of the Cardiff Capital Region (CCR) City Deal's Regional Cabinet. The complaint was that he had purchased shares in a company that had been leased premises by CCR City Deal and that he had then not declared an interest as appropriate

Following our referral, the Adjudication Panel for Wales decided that the councillor had improperly used his position in attempting to gain an advantage for himself by purchasing shares in a company after receiving confidential information relating to the Cardiff Capital Region City Deal. It also found that the councillor had a personal and prejudicial interest in the company which he had failed to declare and he did not leave a meeting when the matter was being considered by the Council.

The Panel suspended the councillor 5 months for several breaches of the Code of Conduct.

**Our reference: 201906873**

We received a complaint from the Chair of the Personnel Committee of Tywyn Town Council that a member of that Council had been disrespectful to the Clerk and had repeatedly undermined her.

Following our referral, Gwynedd Council's Standards Committee found that the member had used discriminatory language towards the Clerk relating to her gender and had used disrespectful, bullying and harassing behaviour towards her.

A censure was the only sanction available to the Standards Committee as the member had resigned shortly before the hearing. However, the Committee put on record that, had the member not resigned, he would have been suspended for 6 months.

## Promoting better practice

We would want to see the overall number of low-level complaints about members of Town and Community Councils reduce and we are also concerned about the high number of referrals this year.

We strongly believe that the way to overturn these trends is through training for councillors on the Code of Conduct. We would also encourage greater use of local resolution procedures. These procedures can deal with problems early and prevent the need for further escalation to our office, which can improve working relationships.

Since not all members take up opportunities to undertake training, we are pleased that, under the Local Government and Elections (Wales) Act 2021, Town and Community Councils must now make and publish a plan about the training provision for its members and staff. The first training plans must be ready and published by 5 November 2022. We expect these plans to include training about the Code of Conduct.

We also welcome the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour. We look forward to working with Monitoring Officers and Standards Committees as they take up their additional duties.

**Last year, Richard Penn (formerly the National Assembly for Wales Commissioner for Standards) undertook, on behalf of the Welsh Government, an independent review of the Ethical Standards Framework for Wales.**

**We look forward to working with the Welsh Government and other key stakeholders on matters arising from the Penn review.**

## Whistleblowing disclosure report

Since 1 April 2017, we are a 'prescribed person' under the Public Interest Disclosure Act 1998. The Act provides protection for employees who pass on information concerning wrongdoing in certain circumstances. The protection only applies where the person who makes the disclosure reasonably believes that:

1. they are acting in the public interest, which means that protection is not normally given for personal grievances.
2. the disclosure is about one of the following:
  - criminal offences (this includes financial improprieties, such as fraud)
  - failure to comply with duties set out in law
  - miscarriages of justice
  - endangering someone's health and safety
  - damage to the environment
  - covering up wrongdoing in any of the above categories.


As a 'prescribed person', we are required to report annually on whistleblowing disclosures made **in the context of Code of Conduct complaints only**.

In 2021/22, we received 27 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. Almost a half of those disclosures (12) related to allegations that the members concerned had 'failed to promote equality and respect'. We investigated 11 of these complaints. So far, we have closed one of those investigations. We decided in that case that no further action was necessary.

We concluded investigations into 8 relevant complaints which were ongoing from 2020/21. Of these:

- we referred one case to a Standards Committee. The Committee decided that there was a breach of the Code of Conduct and censured the member.
- we referred one case to the Adjudication Panel for Wales. The Panel has not yet decided on that complaint.
- in three cases, we discontinued the investigation.
- In three cases, we decided that we did not need to take any action further action in respect of the matters investigated.

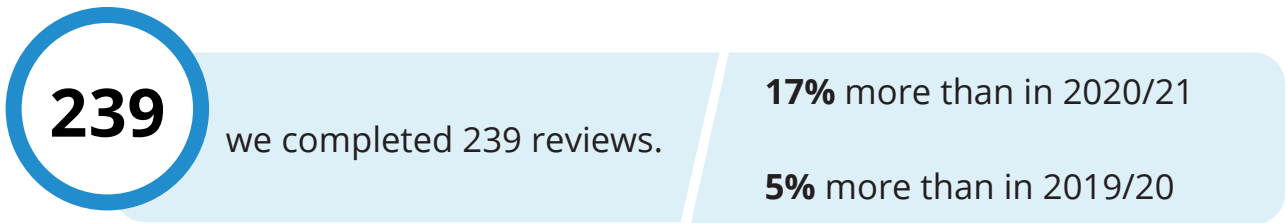
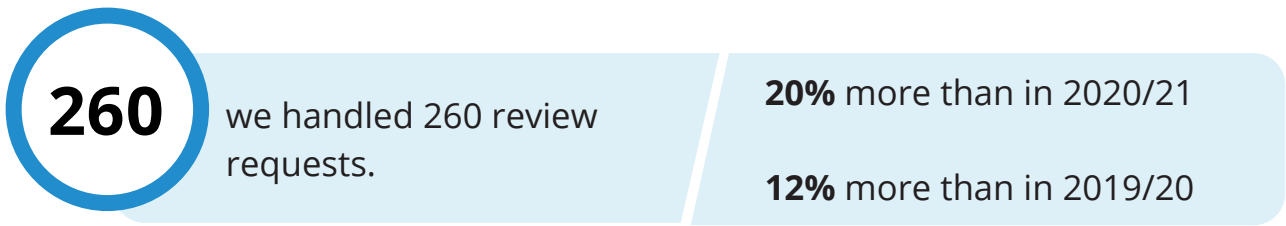
One of the investigations opened in 2020/21 is still ongoing.

A close-up photograph of a woman with short, curly, light-colored hair. She is smiling warmly and looking down at a smartphone she is holding in her hands. She is wearing a white long-sleeved shirt with thin blue horizontal stripes. The background is softly blurred, showing what appears to be a window with light-colored curtains. In the top left corner, there are several thin, curved blue lines. The overall mood is positive and focused.

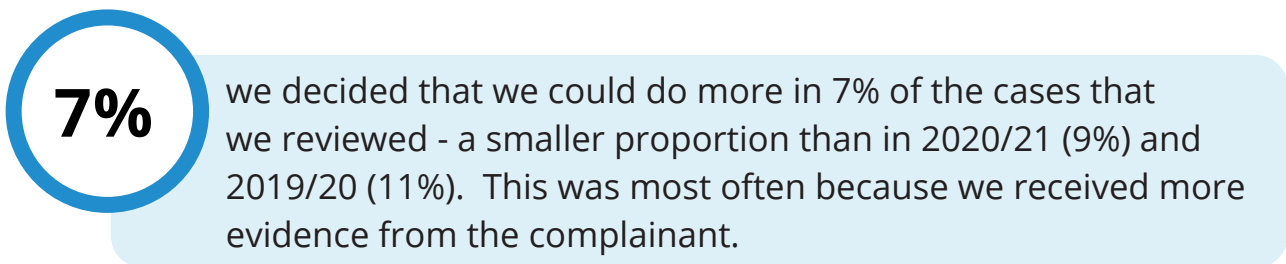
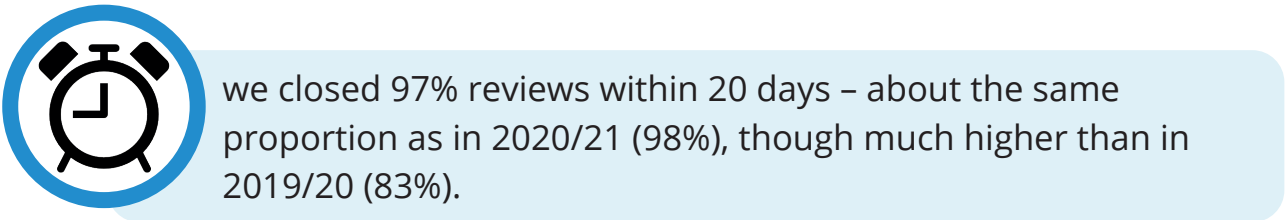
**“ What you and your team do is so important. It brings answers to families in dire need and helps so much when we are literally alone in the dark.**

## Review and Quality Assurance

We do our best to make sure that we handle complaints fairly and in a transparent way. We received many more complaints this year and unsurprisingly we also received many more requests for reviews of our decisions. We managed to complete these reviews promptly and we upheld a smaller proportion than last year. This gives us confidence in our decisions. In 2021/22:



We did not complete 21 reviews this year and will undertake them in 2022/23.





## Review requests

We understand that people may be unhappy with our decisions. People who are unhappy can ask for a review if they can show we did not properly consider the information they sent us, or if they can send us additional, new evidence. Those reviews are done by a member of staff who was not previously involved on a case.

This year we received more new review requests than ever before and we also managed to close more reviews than in 2020/21.

We upheld only 7% of the review requests – less than last year (9%). Although there is always more work for us to do to improve, this gives us confidence in our decisions.

## Quality assurance

In addition to reviewing some cases, we also aim to regularly check the quality of our casework to ensure that it meets our service standards.

Last year we introduced a new Quality Assurance (QA) process. We aimed to look regularly at a selection of our cases at enquiry, assessment and investigation stage, to check the quality of our work. We undertook several QA reviews during the year, but the high workload meant that we were not able to do as many as we wished. We have now appointed a new Service Quality Officer to take on this important work in 2022/23.

## Learning lessons

If we see from reviews and quality assurance that we can improve how we work, we let our staff know. For example, we may think that we need more training to deal with some complaints, or that we need to change our policies or processes.

We talk about learning points in our team meetings. We also have a space to share these lessons on our Intranet.

For example, as a result of one complaint we have amended our public body complaints process so that our staff now telephone complainants before sending out our draft investigation reports. This gives an opportunity for us to explain our investigations and alerts complainants that our reports are on their way.

After this section, we compare our performance this year to 2020/21 only



See section [The impact of COVID-19](#) for more details.

## How quickly we considered complaints

Despite our workload this year, we met or almost met many of our decision times targets for public body and Code of Conduct complaints. However, we did not always start investigations into complaints about public services, or close cases about the Code of Conduct, as quickly as we aimed to.

We know that people expect us to consider their complaints quickly. However, we also need to investigate thoroughly and consider the views and comments of complainants and public bodies. In some cases, we also need to ask for professional advice.

We show below how quickly we aim to make our decisions in complaints about public services and how we performed this year:

	<b>In 2021/22, we aimed to do that in ...</b>	<b>We succeeded in...</b>
<b>Complaints about public services</b>		
decide if a complaint is not in our jurisdiction within 3 weeks	90% of cases	90% of cases
decide if we should not investigate a complaint within 6 weeks where we seek early resolution, decide within 9 weeks	90% of cases	83% of cases
decide to investigate and start our investigation within 6 weeks of the date we receive sufficient information	90% of cases	88% of cases
close cases that we investigated within 12 months	80% of cases	69% of cases
	85% of cases	76% of cases
<b>Complaints about the Code of Conduct</b>		
decide if we should not investigate a complaint within 6 weeks	90% of cases	98% of cases
decide to investigate and start our investigation within 6 weeks of the date we receive sufficient information	90% of cases	80% of cases
close cases that we investigated within 12 months	90% of cases	67% of cases

2021/22 was a challenging year for us. We received more complaints than ever in the history of our office.

Despite that, we closed a record number of complaints and we were able to meet, or almost meet, many of our targets for decision times:

- ☑ Although we did not complete our consideration of cases as quickly as in 2019/20 in all areas of our work, we were mostly able to decide quickly which cases not to investigate.
- ☑ We were also able to resolve cases promptly where we secured early resolution. That is a good thing: many people complaining to us want to see their case resolved quickly and early resolution can often achieve that more quickly than investigation.

However, in some respects we fell short of our targets:

- ☒ We were not always able to start investigations into complaints about public services as quickly as we aimed to.
- ☒ We took too long to investigate some Code of Conduct cases.

This was in part because of our workload – there were simply too many cases for us to consider speedily with the resources we have.

Our work was also affected by the response times of the bodies in our jurisdiction. As those bodies continued to deal with the effects of the pandemic, they were not always able to respond to us as quickly as we would have liked.

Similarly, in some cases there have been delays on the part of councillors in cooperating with our investigations.

## What people think about our service

We want to deliver an excellent service. To check how well we do that, we invite feedback from people who complain to us and from the bodies in our jurisdiction. We use that feedback to improve how we work.

This year, the bodies in our jurisdiction told us that they were broadly satisfied with our service. However, compared to 2020/21, our complainants were less happy with the service that they received from us. We are working on a detailed action plan to improve how we work based on this feedback. In 2021/22:

**43%**

43% of our complainants that we asked were happy with our customer service – compared to 51% in 2020/21.

**89%**

89% of the complainants who were happy with the outcome of their complaint were also happy with our service – compared to 99% in 2020/21.

**32**

we received 32 new complaints about us. This was 23% more than in 2021/22 (26).

**93%**

we responded to 93% of complaints about us in 20 days – compared to 100% in 2020/21.

**41%**

of the complaints about us that we closed, we upheld or partially upheld 41% - compared to 22% in 2020/21.

## Our complainants

### Telephone survey results

Every year, we organise a telephone survey of about 200 people who complained to us during the year. We ask another organisation to conduct this survey, to make sure that it is as impartial as possible.

As in previous years, people that we asked were much more likely to be happy with our service if they were also happy with the outcome of their complaint. For this reason, when we present the findings of this survey, we refer to the scores firstly of all who responded – and secondly of those happy with the outcome.

Most people that we asked this year thought we were easy to find. A smaller, but still significant proportion, felt that we clearly explained what we do and how we do it and that we were helpful.

“ I am very grateful for the time and patience and recourse to expertise and material that has been expended on this case.

“ Very satisfied with everything from start to finish. Everything was explained to us. And phone calls were made to keep us updated.

80%

95%

80% of all respondents and 95% of those happy with the outcome said that we were easy to find.

60%

86%

60% of all respondents and 86% of those happy with the outcome indicated that we offered a helpful service.

65%

91%

65% of all respondents and 91% of those happy with the outcome suggested that we clearly explained our process and decision.

43%

89%

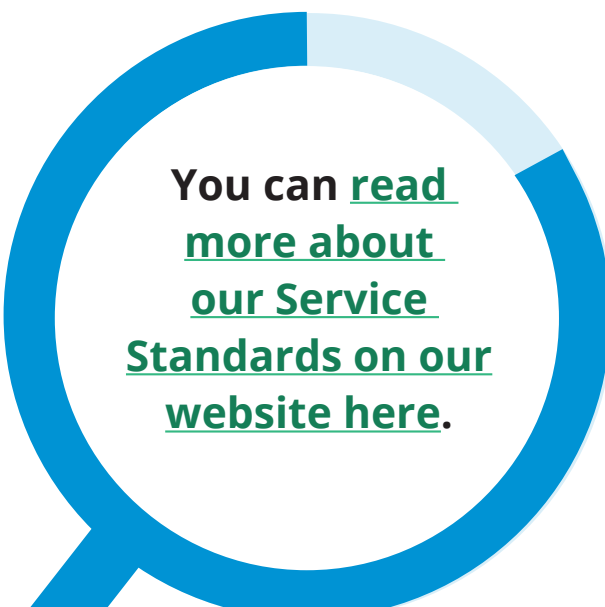
43% of all respondents and 89% of those happy with the outcome said they were happy with our customer service.

However, compared to 2020/21, fewer people were happy with how easy it was to find us and how helpful we were. Also, a lower proportion said they were happy with our customer service overall.

We use the survey findings to assess how we perform against our Service Standards:

1. We will ensure that our service is accessible to all.
2. We will communicate effectively with you.
3. We will ensure that you receive a professional service from us.
4. We will be fair in our dealings with you.
5. We will operate in a transparent way.

Overall, compared to 2020/21, people were generally less happy with how we met our Service Standards. Our challenge for 2022/23 is to improve our service whilst facing increased workload and static resources.



**You can read more about our Service Standards on our website here.**

## Complaints about us

People who are unhappy with our service can complain to us. We value those complaints, as they help us to find out what we need to do better.

This year, we received 32 new complaints about us - 23% more than last year.

We upheld or partially upheld 41% of the complaints about us that we concluded - compared to 22% last year. Several complaints related to emails we sent but that were not received by complainants. To address this issue, we have moved to a new secure email system.

Other complaints related to delays and timeliness. This reflected our workload pressures and a mismatch between demand and our resources. These issues are harder to address but we are working to simplify our processes and become more efficient despite the increasing workload.

To ensure that we are open and accountable, if people are unhappy with how we handled their complaint about us, they can ask for that complaint to be considered by an external independent review service.

During 2021/22, 6 people referred their complaints to our external review service. Two were upheld in part. In one case, we did not include a complainant's reference number in our correspondence. In the other, the reviewer found that we had not responded sufficiently clearly to a councillor alleged to have breached the Code of Conduct.

## Lessons

Overall, the results indicate that service users are less happy with our service. The feedback that we received this year suggests that there are some important issues that we need to address:

- what we communicate – we need to be more transparent and consistent in communicating our powers, process and criteria. This should help us to manage complainant expectations and improve trust in our process.
- how we communicate – we need to maintain more regular and personal contact with people who complain to us, including over the phone.
- how accessible we are – we need to make our processes clearer and more usable. We also need to make sure that we let people know how we can help them complain or understand our work.
- how we maintain a good service and make clear what level of service we can provide, when facing increasing workload and limited resources.

## Bodies in our jurisdiction

We also invite comments on our work from the bodies in our jurisdiction.

This year, we issued an online survey to 92 public bodies. We asked them for comments on their most recent complaint with us, as well as on our work in general. We received 31 complete responses. The results were broadly positive. The respondents rated their last interaction with us and gave an overall satisfaction score of 8.35/10.

Following that, we held three Sounding Board sessions in March 2022, with 26 public bodies taking part. The meetings were split into sectors – so all Local Authorities featured in one, Health Boards in another, with a third meeting for housing associations. The feedback was very positive, but we also received some suggestions for improvements. The bodies told us that we need to:

- be clearer about our deadlines
- use less formal language in written communication
- help them reconcile their complaint records with our own complaint numbers.

We will be working to implement these suggestions in 2022/23.

## 26 public bodies

**took part in our Sounding Boards this year**

## How accessible we are

We work to make sure that people are aware of and trust our service - and that we are accessible to all who need us. We had some successes this year, but we will continue to work to improve how accessible we are. In 2021/22:

**43%**

43% of people who responded to a national survey knew about us.

**80%**

80% of our complainants that we asked said that it was easy to contact us.

**221**

we took 221 oral complaints – compared to 63 last year.

Cymraeg

we complied with all our Welsh Language Standards.

**14**

we organised a Sounding Board with advice and advocacy bodies to understand how accessible we were. 14 organisations attended that session.



## Awareness and trust

We regularly commission research to check how many people know about our office, understand what we can and cannot do and have trust in our work. This helps us to understand some barriers that may stop people from contacting us in the first place.

This year, 43% of people who responded to the national survey knew about us. This was less than the 48% in 2020, but still a high proportion.

What people thought about our office in general was also overall positive.

Although we would want everyone to know about us, these are quite good results.

However, we are concerned that some groups were much less aware of us this year than in 2020 – especially people from diverse ethnic backgrounds. People in this group were also much less likely than in 2020 to feel that they could approach us if they needed to.

We are speaking to organisations that work with people from diverse ethnic backgrounds to see what we can do to raise our profile within those communities.

Of people who responded to the national survey,

**43%**

said that they knew about us – less than the 48% in 2020.

**73%**

said that they had confidence in our work – more than the 70% in 2020.

**79%**

agreed that we were impartial – the same as in 2020.

**83%**

said that they believed they could approach us if they needed to – less than the 88% in 2020, but still a high score.

We publish detailed information about the profile of people who complain to us in our Annual Equality Report. You can [read our Annual Equality Reports on our website](#).

## Additional needs

Some people may find it more difficult to complain than others and there are many ways in which we can help.

80% of our complainants that we asked this year said that it was easy to contact us.

Our website has different options to make it easier to access, including by making the text larger, simplifying it, or reading it aloud. We publish information about our process in EasyRead format.

If asked, we can provide information in other formats, such as Braille. We can also organise translation and interpreting services and there is a link on our website to 'SignVideo' – an interpreting service for British Sign Language (BSL) users.

People can complain to us in different ways. Most people complain online, by email or by post. However, since 2019, we can also accept complaints that are not in writing. This year we took 221 oral complaints. This is a huge increase compared to 63 last year. We also took our first complaint in British Sign Language.

**“** Immensely helpful. I have dyslexia and wouldn't have been able to submit a complaint otherwise.

Our national survey showed this year that more people were aware that we can accept complaints other than in writing. 80% of people asked knew that we can accept a complaint over the phone and 54% knew that we can take a complaint in BSL.

We ask all people who complain to us to let us know if they need help and support and we consider and respond to all requests for adjustments. Of those who needed adjustments, 93% said that we did what they asked us to do.

EasyRead is an accessible format. It is used by people with learning disabilities and other people who have difficulty with reading. EasyRead is a way of translating difficult information and making it easy to understand.



## Welsh language

We fully embrace the Welsh language and we want to make sure that we treat it no less favourably than English in all aspects of our work and that we meet the needs of Welsh speakers. People who complain to us can deal with us in Welsh if they wish. We have now completed the work to meet all our Welsh Language Standards. You can read our [Welsh Language Policy on our website](#).

## Outreach

During the year, we met with many advice and advocacy groups to talk about work and learn what we can do better. These included Ethnic Minorities & Youth Support Team Wales (EYST), Learning Disability Wales, Autistic UK, the Chinese in Wales Association, the Wales Refugee Council, Carers Wales and many others.

In March, we organised a Sounding Board session which was attended by 14 advice and advocacy organisations. We also organised a small follow-up session with some members of Disability Wales.

## Lessons

Through our research and talking to organisations, we gathered many constructive and detailed comments on what we can do to be easier to access. We need to:

- make sure that our processes are clearer and more usable
- ensure that we make people more aware of different ways in which we can help them access our service
- talk about our work and values in a simple and more approachable way.

We are working on a detailed action plan to adjust how we work based on this feedback.

## Strategic Aim 2: Promote Learning

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Despite the significant increase in our workload this year, we continued to promote learning from our complaints and improve broader public services.



## Promote Learning: our work at a glance



We issued our Model Complaints Handling Policy and accompanying guidance to an initial 8 Housing Associations – bringing the total of bodies under Complaints Standards to 39.



We provided 140 virtual training sessions to public bodies across Wales



We published on our website statistics about complaints made to County and County Borough Councils for the first time.



We issued 7 public interest reports.



We launched the 'Our Findings' tool on our website, which replaces our traditional casebooks.

We worked with the bodies in our jurisdiction, especially Health Boards, to help them improve their services and their complaint handling.



We launched the findings of our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'.

We publish detailed information on our complaints standards work and own initiative investigations in our Report on Proactive Powers.



We responded to 16 public consultations.



We published our third Equality and Human Rights Casebook.



We issued updated guidance – 'Principles of Good Administration' and 'Good Records Management Matters'.

## Complaints Standards

The PSOW Act 2019 gave us new powers to proactively improve how public bodies handle complaints. In 2021/22, we further developed how we use those powers. In 2021/22:



We issued our Model Complaints Handling Policy and accompanying guidance to an initial 8 Housing Associations – bringing the total of bodies under Complaints Standards to 39.



We provided 140 virtual training sessions to public bodies across Wales



We published on our website statistics about complaints made to County and County Borough Councils for the first time.

### Model Policies

Following our work on Complaints Standards in 2020/21, we have increased the number of public bodies who now comply with our model policy.

In April 2021, 22 County and County Borough Councils become subject to complaint handling standards, followed by all the Welsh Health Boards and Trusts in June 2021.

Housing Associations are the next largest group of bodies that people complain to us about. This year, we focused our attention on that sector.

In October 2021, we issued our model complaints policy to Housing Associations. An initial 8 Housing Associations will need to comply with that policy from April 2022. This means there are now 39 public bodies following a single model complaints policy.

You can find [our model complaint policy on our website here.](#)

## Training

In the last year, we delivered even more training sessions that we did in 2020/21 – 140 in total, with around 3,000 people attending. We delivered all our sessions remotely over Microsoft Teams and we provided them to public bodies free of charge.

The feedback we receive from the attendees continues to be consistently excellent. We are very proud of how we have been able to support public bodies at a particularly challenging time for them but also for our own office.

## Statistics

In 2021/22, for the first time, we published on our website information on complaints received by County and County Borough Councils. This information has not been available in one place before and we are pleased to be able to provide this for service users. This publication received media attention and [can be found on our website here](#).

More detailed information on our work as the Complaints Standards Authority for Wales can be found in our Report on Proactive Powers.

## Own Initiative investigations

We can undertake two different types of 'own initiative' investigations:

- extended investigation – when we are already investigating a problem and we extend the investigation to other issues or complainants
- wider investigation – when we conduct a stand-alone investigation which does not relate to a complaint made by an individual.

In 2021/22:

3

We completed 3 extended investigations.



We launched the findings of our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'.

### Our extended investigations

During 2021/22, we completed three extended investigations. We issued the findings of one of those investigations as a public interest report, and we include a summary of that report in [the Sharing our findings section](#).

You can find the summaries of the other two investigations in our Proactive Powers report.

Two further extended investigations are ongoing.

### Homelessness Reviewed – our first wider own initiative investigation

In October 2021, we published the report on our first wider Own Initiative Investigation – 'Homelessness Reviewed: An open door to positive change'. The investigation considered how local authorities conducted homelessness assessments and looked at the work of three County Councils – Cardiff, Wrexham, and Carmarthenshire.

In our report, we praised the work done by these Councils during the COVID pandemic and we acknowledged elements of good practice. However, we identified several



serious failings. This led us to make recommendations for improvements by the three Councils that we investigated. We invited the other 19 County Councils in Wales to make similar improvements:

- providing human rights and equality training to officers
- reviewing communication methods
- revising template letters.

We also invited the Welsh Government to consider introducing a housing regulator to help standardise practices in relation to homelessness assessments across Wales.

We presented the findings at an event with the Chartered Institute of Housing, discussed the report with Welsh Government and Audit Wales and the report was debated by the Local Government and Housing Committee at the Senedd. We were very pleased with how the final report was received and expect that it will lead to positive change.

**We discuss our own initiative investigations work in more detail in our Report on Proactive Powers.**

## Policy work

If we have relevant insights to share about our work, we contribute them to public inquiries and consultations. In 2021/22:

16

we responded to 16 public consultations.

We use our expertise and the evidence from our casework to contribute to the development of public policy in areas such as health, social care and local government.

Many responses that we submitted this year related to the changes under the Local Government and Elections (Wales) Act 2021.

The Act set up Corporate Joint Committees (CJCs), the new statutory mechanism for regional collaboration, covering four areas in Wales. The Welsh Government has consulted during the year on regulations and statutory guidance which defines how these bodies should work in practice. When responding, we pointed out that people will be able to complain to us about members of CJCs breaching the Code of Conduct. However, the Welsh Government had not appeared to have assessed at the time how much it would cost us to process those complaints.

In another example, we shared our concerns about waiting times for treatment in the health service. We do not usually investigate complaints about waiting times, unless the delay caused unnecessary pain and suffering. However, with over 22% of the Welsh population on waiting lists, we are very concerned that we will soon start to receive many complaints like that. We spoke about our concerns in a consultation response to the Senedd's Health and Social Care Committee, but also in interviews on ITV and the BBC and in press articles.

## Sharing our findings

We believe that it is very important that we share findings from our casework as widely as possible to help improve public services. This year, we issued even more public interest reports, launched new guidance and a new tool to help people search for our findings. In 2021/22:



we issued 7 public interest reports.



we launched the 'Our Findings' tool on our website, which replaces our traditional casebooks.



we published our third Equality and Human Rights Casebook.



we issued updated guidance – 'Principles of Good Administration' and 'Good Records Management Matters'.



we worked with the bodies in our jurisdiction, especially Health Boards, to help them improve.



## Public interest reports

When we investigate a complaint and we think that something has gone wrong, we usually prepare a report which explains our findings. Sometimes, we decide to issue a 'public interest' report. We do this for example when:

- there are wider lessons from our investigation for other bodies
- what went wrong was very significant
- the problem that we found may be affecting many people, not just the person who complained to us, or
- we had pointed out the problem to the body in the past, but the body did not address it.

When we issue a public interest report, we draw attention to it in the media. The body also must publish an announcement in the press about the report.

This year, we issued 7 public interest reports – one more than in 2020/21 and 3 more than in 2019/20.

Five of these reports were about health care. Our other two public interest reports were about social care and waste management.

## Our reference: 202001285



Mr X complained to us about the diagnosis and treatment of his wife, Mrs X, by Cwm Taf Morgannwg University Health Board. He complained that Mrs X (who had been diagnosed with cancer 3 months earlier) did not receive a diagnosis and treatment quickly enough when she was admitted to the Emergency Department (ED) with a possible infection. Mrs X sadly died when in hospital.

We agreed that it took too long to diagnose Mrs X's condition and give her the correct treatment. We believed that Mrs X could have survived if she had the correct treatment sooner. We also found that the way Mrs X was cared for compromised her dignity and that she was denied the opportunity of spending the little time she had left with her family.

We recommended that the Health Board should:

- apologise to Mr X for service failure and distress caused to the family and
- arrange relevant training to all ED staff
- carry out an audit of a sample of patient ED records to ensure that similar cases were assessed and escalated appropriately
- create a standard procedure for management of patients whose clinical condition suggests special arrangements need to be made by the receiving hospital.

We issued our findings as a public interest report because this case was very serious and because it was possible that Mrs X's death was avoidable.

[Read about this report on our website here.](#)



## Our reference: 202000661 and 202001667



Mr D complained to us that his late mother, Mrs M, did not receive the correct diagnosis and treatment for her symptoms of abdominal pain and weight loss by Betsi Cadwaladr University Health Board. He also complained about the discharge arrangements with Denbighshire County Council.

We found that clinicians did not diagnose Mrs M's condition correctly, explaining her weight loss and aversion to eating to as a "food phobia". We also agreed that Mrs M should not have been discharged when she was and that the Health Board and the Council did not plan and organise her discharge as they should have.

We recommended that each body should apologise to Mr D for the failings identified in our report and:

- share our report with their respective Equalities Officers to facilitate training on the principles of human rights in the delivery of care
- make a redress payment to the family of £250 in recognition of failings in complaint handling.

We also recommended that the Health Board should make a redress payment of £5,000 to the family in recognition of the distress that the findings of our report would have caused.

We issued our findings in this case as a public interest report because this was a serious case of wrong diagnosis. We could not be certain that this wrong diagnosis led to Mrs M's death. However, we decided that this uncertainty was a serious injustice to Mrs M and her family.

[Read about this report on our website here.](#)



## Our reference: 202002273



Mr Y complained to us about treatment arrangements by Betsi Cadwaladr University Health Board. He complained that he had to wait too long for urgent treatment for his prostate cancer in 2019. When he was put on the waiting list for treatment, he joined 16 other patients awaiting the same procedure.

We used our proactive powers to investigate if the Health Board took too long to provide the treatment to these patients (we considered and upheld Mr Y's concerns in a separate public interest report).

We found that 8 of the patients were referred for treatment in England. For those patients, the Health Board did not produce a report to the Welsh Government about exceeding the waiting times target, nor did it carry out harm reviews. Although this was in line with the Welsh policy at that time, we decided that the Health Board still should have monitored what care these patients received and should have considered the impact of the delay in their treatment. We recommended that the Health Board should:

- return the affected patients to the position they would have been in had they been treated in Wales
- carry out a harm review for each patient and review its harm review process.

We issued our findings as a public interest report because we were concerned that there may be systemic problems in how the Health Board delivered prostate cancer treatment. We had also conducted previous investigations into the Health Board's urology services and we were concerned that issues we had raised previously had not been addressed.

[Read about this report on our website here.](#)



## Our reference: 202002558



Ms B complained to us about the care provided by Hywel Dda University Health Board. Ms B complained that the Health Board did not provide her son, Mr C, with the right learning disability psychology services after a specialist support service for young people was closed.

We found that the Health Board did not arrange suitable services for Mr C. Although the Health Board was aware that Mr C was not receiving appropriate services, it did not plan how to meet his needs and this left Ms B without enough support to manage Mr C's behaviour.

We recommended that the Health Board should apologise to Ms B for the clinical, communication and complaint handling failings that we identified and:

- remind the relevant staff of the importance of good complaint handling practice
- review whether any other patients did not get the service they needed because of the closure of its specialist support service - and ensure that it works to meet those needs
- commission and complete its planned review of the Health Board's child psychology services and reports the findings back to us.

We issued a public interest report in this case because the Health Board closed the support service but did not replace it. This had led to significant injustice to Ms B and Mr C. We were also concerned that this issue may have impacted upon other vulnerable patients.

[Read about this report on our website here.](#)





## Our reference: 202003539



Mr S complained to us about care and treatment provided by Cardiff and Vale University Health Board. Mr S complained that clinicians did not correctly diagnose his diseased colon. He also complained that, because he was not treated quickly enough, he suffered complications after emergency surgery to remove the right side of the colon. Mr S had Asperger's Syndrome and he also complained that clinicians did not clearly explain his treatment options.

We found that Mr S's condition was not diagnosed correctly and did not require extensive surgery. We also found that Mr S did not receive clear information about his condition and treatment.

We recommended that the Health Board should apologise to Mr S and:

- make him a redress payment of £10,000, in recognition of injustice that he suffered
- share our report with the Clinical Director and Director of Nursing responsible for the staff involved in Mr S's care
- make sure the staff undergo relevant training.

We issued a public interest report in this case because, due to the wrong diagnosis, Mr S needlessly went through extensive and risky surgery and a long, difficult recovery.

[Read about this report on our website here.](#)



## Our reference: 201906202



Ms F complained to us about social care arrangements by Bridgend County Borough Council. Ms F complained that the Council did not properly manage her status as a Foster Carer for a young person, Ms G, and that the Council did not give Ms G enough support and assistance after she left its care (Pathway planning). Ms F was also unhappy with how the Council handled her complaint about these problems.

We upheld these complaints.

We recommended that the Council should apologise to the complainants and:

- pay Ms F and Ms G £8,500 each in recognition of the impact that its failings had had on them
- review and revise its Pathway planning documentation
- provide Pathway planning training for relevant staff
- review its approach to aspects of its complaint handling process.

We issued our findings as a public interest report because we were concerned that there may be systemic problems with how the Council planned care for 'looked after young people'. We also decided that the injustice suffered by Ms G and Ms F was significant and that it had implications for other looked after young people in the Council's area.

[Read about this report on our website here.](#)



## Our reference: 202005937 / 202100061 / 202100409



Several vulnerable residents complained to us about waste management services operated by Cardiff Council. The residents complained that the Council's "Assisted Lift" waste collection service did not meet their needs and that the Council did not respond appropriately to their numerous complaints about the service.

We found that the service that the Council provided was not reliable, leading to stress and safety hazards for the residents. We also found that the Council did not respond as it should have to the residents' concerns, despite receiving repeated formal complaints and hundreds of calls about problems with the service.

We recommended that the Council should:

- apologise to the complainants
- resolve any ongoing concerns
- review and improve how it handles its complaints about the Assisted Lift service
- review the service and produce a plan for improvements.

We issued a public interest report in this case because we had considered complaints about this Council's waste management services in the past and we were concerned that it had not addressed the issues that we had previously raised.

[Read about this report on our website here.](#)





## Our Findings

In August 2021, we launched on our website a search tool called **'Our Findings'**, to replace our casebooks. We add new summaries every month to make sure that the record is as up to date as possible.

'Our Findings' includes the summaries of all the reports that we issue on complaints about public services. It also includes the summaries of cases about public services where we agreed early resolutions and voluntary settlements.

'Our Findings' also includes summaries of some of our complaints about the Code of Conduct. We only publish summaries of the complaints that we investigate.

'Our Findings' includes all relevant case summaries from April 2021 onwards. You can still find summaries of our complaints before April 2021 in our traditional casebooks on our website.



## Equality and Human Rights Casebook

This year we also published our third Equality and Human Rights Casebook.

We do not make definitive findings about whether a public body has breached an individual's human rights. However, if we find that something has gone wrong with public services, we consider whether a person's human rights may have been engaged. If we think it is relevant, we

comment on how the body providing the service considered those rights.

Our Equality and Human Rights Casebook assembles a selection of cases where human rights or equality issues have either been raised as part of the complaint or have been central to our findings.

[You can read the Casebook here.](#)



## Annual letters

Every year, we send letters to Health Boards and Local Authorities about the complaints we received and considered about them during the year. We do this to help these bodies improve their complaint handling and the services that they provide. [We publish all annual letters on our website here.](#)



## Guidance

In 2016, we issued the 'Principles of Good Administration and Good Records Management' to public bodies in Wales.

In 2021, we decided to review the 'Principles' and split them into two separate publications. We considered that this would provide public bodies and complainants with both clear general principles of good administrative practice and separate specific advice on good administrative practice in relation to records management.

After we consulted on draft guidance, we issued the final publications in January 2022.

You can find our [revised Principles of Good Administration and Principles of Good Records Management on our website here.](#)



## Engagement

It is important that we directly engage with the bodies in our jurisdiction and other stakeholders operating in the sectors which account for most of our complaints.

As part of this work, during 2021/22, we:

- attended meetings of the Listening and Learning from Feedback group (LLFG) and Heads of Patient Experience (HOPE) network working with NHS bodies to make the most from their complaints
- attended two Healthcare Inspectorate Wales summits, which included all the healthcare regulators in Wales as well as Audit Wales, Community Health Councils and other bodies
- attended the NHS Confederation conference
- met with Health Board Chief Executives
- met the Local Authority contact officer group and held numerous meetings with those officers to discuss good practice

- presented to a Tai Pawb event on making complaints processes inclusive
- spoke at TPAS Cymru's webinars to promote the work we're doing with Housing Associations.

We also aim to share relevant information and insights with other key stakeholders responsible for the scrutiny of the health sector such as Healthcare Inspectorate Wales, Care and Social Services Inspectorate Wales, General Medical Council, Community Health Councils and Audit Wales, as well as the Welsh Commissioners.

## Strategic Aim 3: Use Resources Wisely

We value and support our staff and are committed to creating an equal, diverse, and inclusive workplace. We want to ensure good governance which supports and challenges us and we benchmark our work against best practice in the UK and internationally. We also secure value for money and make sure that our services are fit for the future.



## Use Resources Wisely: our work at a glance

**72%**

72% of our staff completed 28 hours or more of continuing professional development.

**2.7%**

The average percentage of working days lost through staff sickness increased from 1.1% to 2.7%. This was largely because of long-term absences due to stress, mostly not work-related.



We continued to offer Mental Health First Aider support to staff. The Wellbeing Working Group introduced a range of new staff benefits and continued to focus on ways to support staff wellbeing.

**84%**

84% of our staff responded this year to our staff survey.



86% of those who responded agreed that we are committed to creating a diverse, equal and inclusive workplace.

**FAIRPLAY  
EMPLOYER**

We again achieved the Chwarae Teg FairPlay Employer award at silver level.



We achieved Autism Awareness Employer Status.



We used 2% more energy than last year, but 29% less than in 2019/20.



we avoided 176 kg of CO2 in emissions

We sent 0% of our general waste to landfill.



We maintained close links with colleagues in the UK, Europe and around the world.

## Training and development

We support our staff to develop the knowledge and skills that they need to offer an efficient and professional service. However, the workload this year has made it challenging for our staff to dedicate time to develop their professional knowledge and skills. In 2021/22:

**72%**

72% of our staff completed 28 hours or more of continuing professional development.

**100%**

All our staff completed their annual appraisal process.

Our staff are our key resource. We want to make sure that all staff members have the skills, knowledge and attitudes to enable them to deliver an excellent service.

### Training

All new colleagues complete a comprehensive induction programme. In addition, every year we support our staff to access the training and development they need. We offer online training for key topics such as equality and in-house training and Good Practice Seminars which include specific public services and legislative change updates. We also provide skills training appropriate to staff roles.

We want all our staff to complete at least 28 hours of training and development each year (pro rata for staff who work part-time).

This year, 72% of staff achieved this (this figure excludes colleagues on maternity/adoption leave).

During the year, we held staff focus groups (facilitated externally by Chwarae Teg) to find out how we can improve training and development and ensure it is accessible to all. The feedback has been extremely valuable and has helped us to identify areas for improvement. This will include clarifying and communicating individual and organisation responsibilities for training and development.

**64% of our staff who responded to our survey this year agreed that the training and development they received is appropriate and relevant to their job.**



We will continue to encourage staff on their development journey in 2022/23.

## Appraisal process

Through our appraisal process, we make sure that each member of staff sets clear objectives and priorities for the year ahead and that we review their progress regularly. New colleagues follow a separate process – we set them more immediate objectives and priorities. For staff returning from maternity/adoption leave or long-term sickness, we agree their objectives when they return.

This year, all our staff completed the appraisal process.

**88% of our staff who responded to our survey agreed that they receive regular and constructive feedback on their performance.**

During the year, we set up a Leadership Development Network for all Leaders with responsibility for line management within our organisation. This Network meets every quarter and provides skills development to build a coaching culture and style of leadership.



## Health and wellbeing

We want our staff to be healthy and well. The very high caseload this year has put our staff under immense pressure. However, we have continuously looked for ways to support their health and wellbeing. In 2021/22:

**2.7%**

the average percentage of working days lost through staff sickness increased from 1.1% to 2.7%. This was mainly because of long-term absences due to stress, mostly not work-related.



we continued our focus on staff wellbeing and worked to support staff with flexible arrangements during another challenging year as we move to the “new normal”.



we continued to offer Mental Health First Aider support to staff. The Wellbeing Working Group introduced a range of new staff benefits and continued to focus on ways to support staff wellbeing.

**84%**

84% of our staff\* responded this year to our staff survey – compared to 92% in 2019/20 (the last year when we held that survey).

\* The total number of staff used to calculate this figure does not include colleagues on maternity/adoption leave

### Challenges

Between the increasing caseload and the ongoing pressures of the COVID-19 public health crisis, it has been a very difficult year for our staff.

After improvements last year, in 2021/22 we saw again more staff absences. The

average percentage of working days lost through staff sickness this year was 2.7%, compared to 1.1% last year. This means that an average of 7.2 days per employee were lost because of sickness, compared to 3 days in 2020/21.

This increase has resulted in part from COVID-19 and in part from longer

term absences of several members of staff. 9% of working days were lost as the result of COVID-19 or 'Long COVID' (compared to 37% last year). 59% were lost because of stress (compared to 4% last year), though much of this was not work-related. 15% of days lost were lost as a result of work-related stress, including pressure from high caseloads and challenging complainants.

## Supporting staff wellbeing

We worked hard to support our staff during this difficult year. We continued to offer staff some wellbeing activities (such as yoga) virtually. We also continued to encourage virtual lunch-time walks, as well as coffee mornings and 'meet ups' online.

We maintained our Mental Health First Aider support to staff and our Wellbeing Working Group continued to focus on ways to support staff wellbeing and introduced a range of new staff benefits. These included a new cycle to work scheme, gym membership scheme and health cash plan.

To support our staff to deal with potential stress and anxiety, we introduced a new internal process. We now use a stress risk assessment to help staff identify emerging issues. We adopted the Health and Safety Executive (HSE) Management Standards to help us prevent work-related stress. All Leaders, as part of the Development Network Programme, have now received training on the HSE management standards. They are continually developing the leadership skills that are known to help staff maintain wellbeing at work.

## Staff survey

One of the key ways in which we measure the wellbeing of our staff is through our staff survey, which we hold every two years.

This year, 84% of our staff responded to this survey, compared to 92% in 2019/20. Its results show the impact on staff of sustained workload pressures.

In the year ahead, we will be working with managers across the organisation to support staff. We will also continue to seek efficiencies to mitigate staff concerns about resources and workload.

**87%**

said that PSOW is a good place to work, down from 96% in 2020.

**93%**

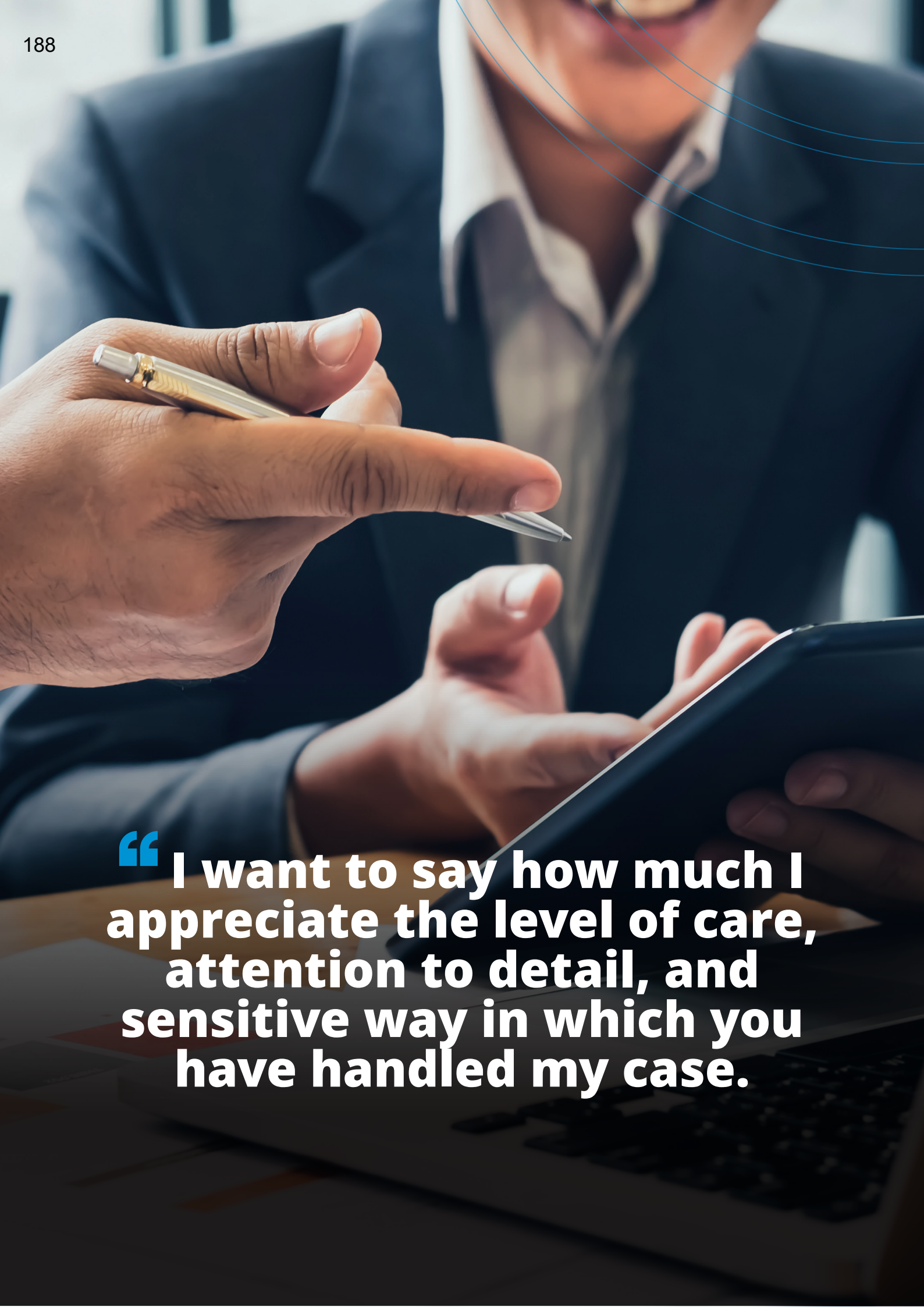
said that their working arrangements were sufficiently flexible to allow them to balance their work and home life priorities, up from 87% in 2020.

**61%**

said that they had sufficient resources to do their work, down from 90% in 2020.

**58%**

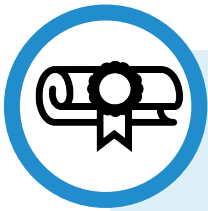
felt that workload pressure was reasonable, down from 76% in 2020.



**“ I want to say how much I appreciate the level of care, attention to detail, and sensitive way in which you have handled my case.**

## Equality, diversity and inclusion

As an employer, we work hard to promote equality and diversity and tackle any barriers to inclusion. In 2021/22:



we reviewed and updated our Race and Ethnicity at Work Charter.



86% of our staff who responded to the staff survey this year agreed that we are committed to creating a diverse, equal and inclusive workplace.



Ymwbyddiaeth am Awtistiaeth  
Autism Aware

we achieved Autism Awareness Employer Status.



we continued to be a Disability Confident Committed employer.



we again achieved the Chwarae Teg FairPlay Employer award at silver level.



we reduced our median Gender Pay Gap to 3%, from 5% last year.



we removed core working hours from our flexible working procedure to help our staff work as flexibly as possible. We also moved to a new model of “hybrid” working.

Equality, diversity and inclusion is important to us – as a service provider and as an employer.

We have a [Strategic Equality Plan which you can read here](#). We are also committed to strengthening our contribution to race equality, justice and inclusion in Wales and have in place a Race and Ethnicity at Work Charter. [You can read the Charter here](#). During the year, we reviewed the Charter and developed a detailed plan of actions.

We have a staff Equality Group that is responsible for developing and monitoring the equality actions we set ourselves each year. We report on all our equality, diversity and inclusion work every year in [our Equality Report which you can read here](#).

**86% of our staff who responded to the staff survey this year agreed that we are committed to creating a diverse, equal and inclusive workplace.**

## Diversity of our workforce

Every year, we examine how diverse our staff and job applicants are and how well they reflect the population of Wales.

Positively, the proportion of people in our workforce who identified with diverse ethnic backgrounds has increased slightly to 8% and is now higher than the Welsh average. However, there were fewer people among our job candidates this year who identified like this (6% of all people who applied to work with us).

Under our Race and Equality at Work Charter, we aim to increase the proportion of applicants, and those shortlisted for interview, who are from diverse ethnic backgrounds. This year, 7% of our shortlisted candidates who responded to our equality monitoring were from those backgrounds.

Some groups are still not well represented among our staff. Very few members of staff are under 25, identify as disabled, come from diverse national backgrounds, or identify as LGBT+. These groups were slightly better represented among the people who applied this year to work for us.

We will work hard to address these trends under our new Equality Plan which we will publish in 2022.



## Awareness of autism and neurodiverse conditions

With a rise in the number of autistic people that use our service, we want to be more aware and accepting of all neurodiverse conditions.

This year, we achieved Autism Awareness Employer Status. 93% of our staff this year completed Autism Awareness training.

We have designated a member of staff as an Autism Champion, who is gaining knowledge from various training courses and meetings with autism organisations to help us better understand and meet the needs of people on the neurodivergent spectrum.



## Inclusion of disabled people

We are a Disability Confident Committed employer. We take part in this scheme to help us include more

disabled people within our workforce and amongst our job applicants.

In the year ahead, we are looking to designate a member of our staff as a Diversity Champion for issues such as disability.

## Gender equality

We are aware that, in a relatively small organisation, individual recruitment outcomes can make apparently large differences. Women among our job applicants consistently outnumber men by a significant margin. We encourage and facilitate development opportunities for female staff which aims to remove barriers to employment or career progression.

This year, we continued to work with Chwarae Teg under the FairPlay Employer scheme. The scheme benchmarks organisations in terms of gender equality across 4 levels: bronze, silver, gold and platinum.

We again achieved the Chwarae Teg FairPlay Employer award at silver level. The Chwarae Teg assessment identified some areas in which we need to do more work and we will do so during 2022/23.

Our work with Chwarae Teg, is showing positive dividends. Our median Gender Pay Gap decreased from 5% at March 2021 to 3% at March 2022. For comparison, **Chwarae Teg estimated that the median Gender Pay Gap in Wales in 2021 was 12.3%.**



	2021/22	2020/21
% of staff female	76%	76%
Median Pay Gap	3%	5%
Mean Pay Gap	17%	17%



## Welsh Language skills of our staff

Under the Welsh Language Standards, every year we measure the Welsh language skills of our workforce.

In 2021/22, 14% of our staff said that Welsh was their main language (compared to 12% last year). However, the proportion of people with fairly good or fluent skills was higher:

- speaking: 27% (compared to 21% last year)
- reading: 30% (compared to 24% last year)
- writing: 27% (compared to 21% last year)
- understanding: 30% (compared to 25% last year)

We are happy with these results and will continue to support our staff to improve their Welsh language skills.



## Working flexibly

This year, we removed core working hours from our flexible working procedure. We did this as a response to the COVID-19 pandemic and to help our staff to achieve as much flexibility and work life balance as possible.

We are currently reviewing our working arrangements and our office accommodation requirements for the future.

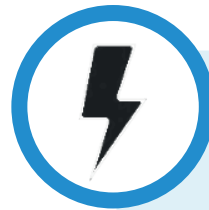


## Sustainability

We understand that we need to play our part in protecting the environment and continue to develop sustainable working practices. In 2021/22:



we produced just over 9000kg of waste - 255% more than last year, but 66% less than in 2019/20.



we used 2% more energy than last year, but 29% less than in 2019/20.



we sent 0% of our general waste to landfill.



we avoided 176 kg of CO2 in emissions

During the year, we still worked mostly from home. However, as we started moving to “hybrid” working, more staff members began to use the office more regularly.

This meant that we produced much more waste on site compared to last year – though still 66% less than in 2019/20. Most of the waste that we produced was confidential waste, as we put a lot of work into destroying old paper files. However, we were able to recycle 94% of waste, compared to 76% last year and we sent no general waste to landfill.

We also used slightly more electricity than last year, though still much less than in 2019/20.

Commuting mileage during the year was also very low and we avoided 176 kg of CO2 in emissions.

We are required by law to publish a reports on our sustainability under the Biodiversity and Resilience of Ecosystems Duty (section 6 duty). We publish in these reports detailed information on how we managed waste, used electricity and calculated commuting emissions. You can [read these reports on our website here.](#)

## Formal accountability

We are accountable to the Senedd for how we work and how we use our resources.

### The Senedd

Each year we make a formal submission to the Senedd's Finance Committee, seeking funding for the following year. We make that submission in line with a set of principles specified by the Committee. The Committee considers our submission and makes a recommendation to the Senedd on how much funding we are to receive. If the Committee makes comments or recommendations on our submission, we take them into account in following years.

In our Annual Report and Accounts, we explain how we used our resources to deliver our service during the year. This Report is laid before the Senedd and is published on our website. The Report is then scrutinised by the Finance Committee. We work to implement recommendations made by the Committee in our following funding submissions and our Annual Report and Accounts.

### Judicial review

The Ombudsman is a Corporation Sole. This means that the person appointed to the role is fully responsible for casework decisions. Complainants can request an internal review of a casework decision that they are unhappy with (we talk about this in more detail in the Review and Quality Assurance section of this Report). However, the appropriate route to challenge our decisions is through judicial review.

No cases were subject to judicial review proceedings in 2021/22.

One former councillor has applied to the High Court for permission to appeal a decision of the Adjudication Panel for Wales to disqualify them from being a member of a local authority in Wales for 12 months. The application has not yet been considered by the Court.

## Working with similar bodies

We work closely with other accountability bodies, and we exchange best practice with other ombudsman services in the UK and beyond. In 2021/22:



we maintained close links with colleagues in the UK, Europe and around the world.

### The Ombudsman community

We continued to be closely involved in the work of the Ombudsman Association (OA), Public Service Ombudsman Group and International Ombudsman Institute (IOI).

In 2021/22, we engaged with several OA networks, considering legal matters, human resources, first contact, casework, communications and policy.

We also attended a working seminar on the development of national Ombudsman institutions, organised by the Parliamentary and Health Services Ombudsman in Manchester, in November 2021.

### The Welsh Commissioners and the Auditor General

During the year, Nick Bennett met the Welsh Commissioners and the Auditor General twice to discuss issues of mutual interest.

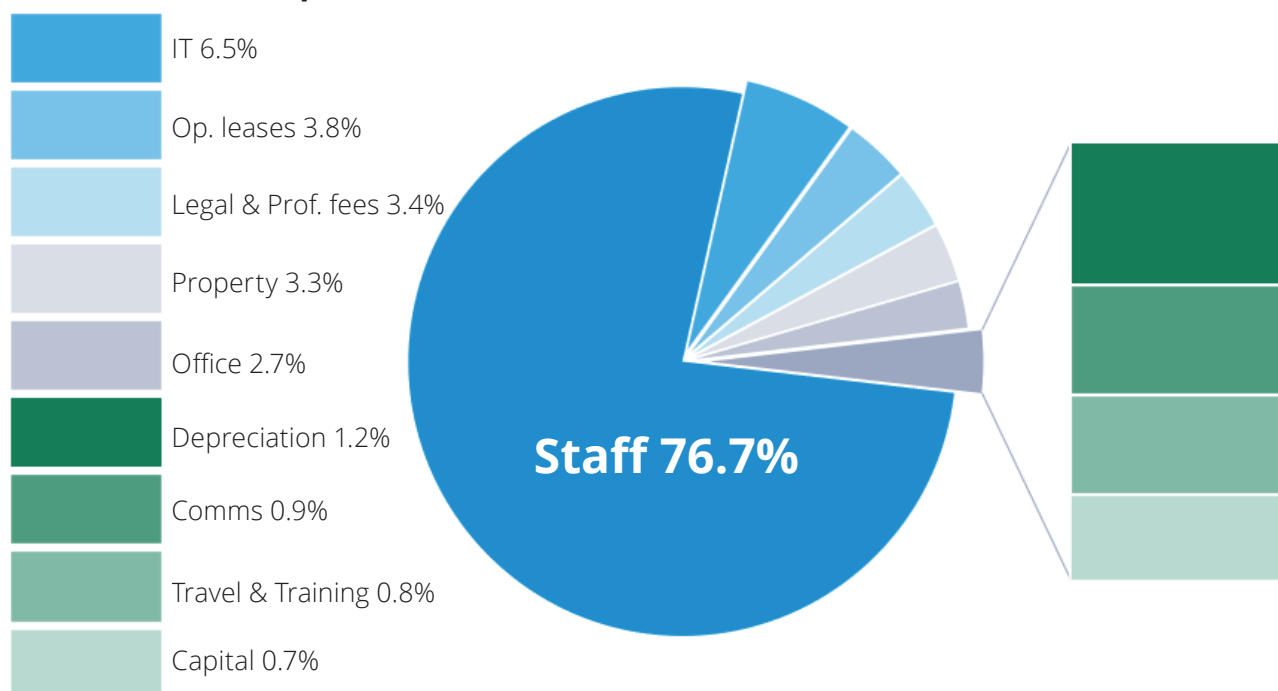
We also issued a joint statement with these bodies on the crisis in Ukraine. In that statement, we welcomed the commitment by the First Minister to make Wales a nation of sanctuary for refugees and asylum seekers.

## Financial Management

Overall resource has decreased compared to last year as a result of a reduction in our annual leave accrual. Cash expenditure has increased compared to the same period as we received a one-off £974,000 pension surplus repayment which reduced our net cash requirement in 2020/21.

Resource Out-turn	2021/22	2020/21	Change
	£000s	£000s	£000s
Total Resource	5,114	5,143	-29
Cash Requirement	5,126	4,096	+1,030

### Gross Resource Expenditure 2021/22



### Analysis of Spending by Strategic Aims

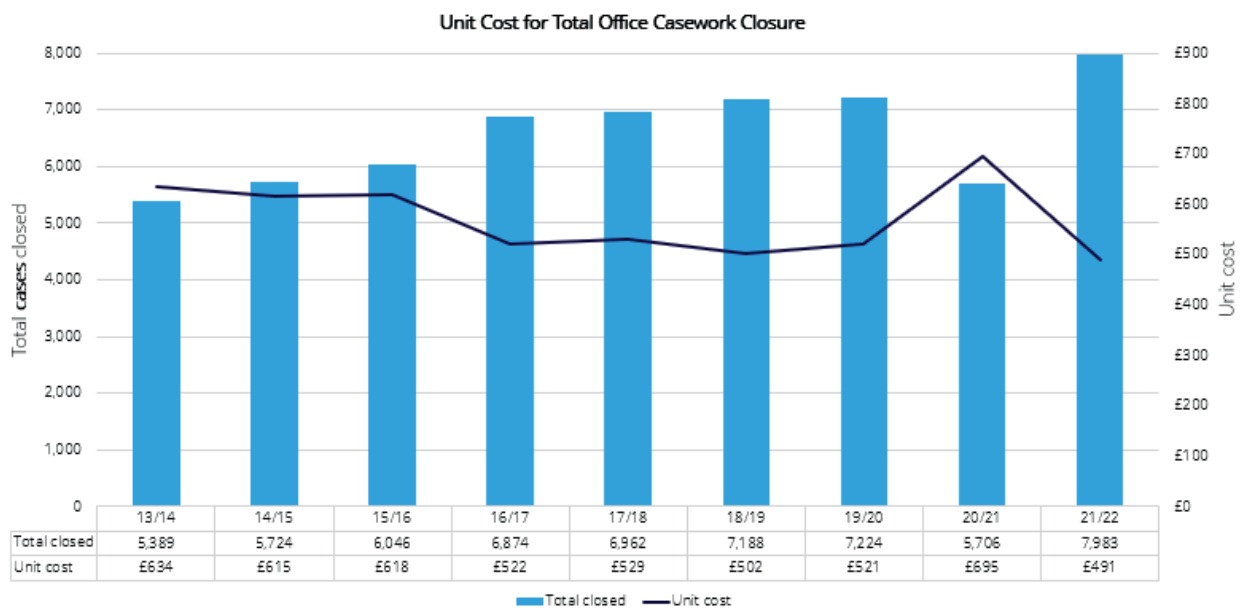


## Unit Costs

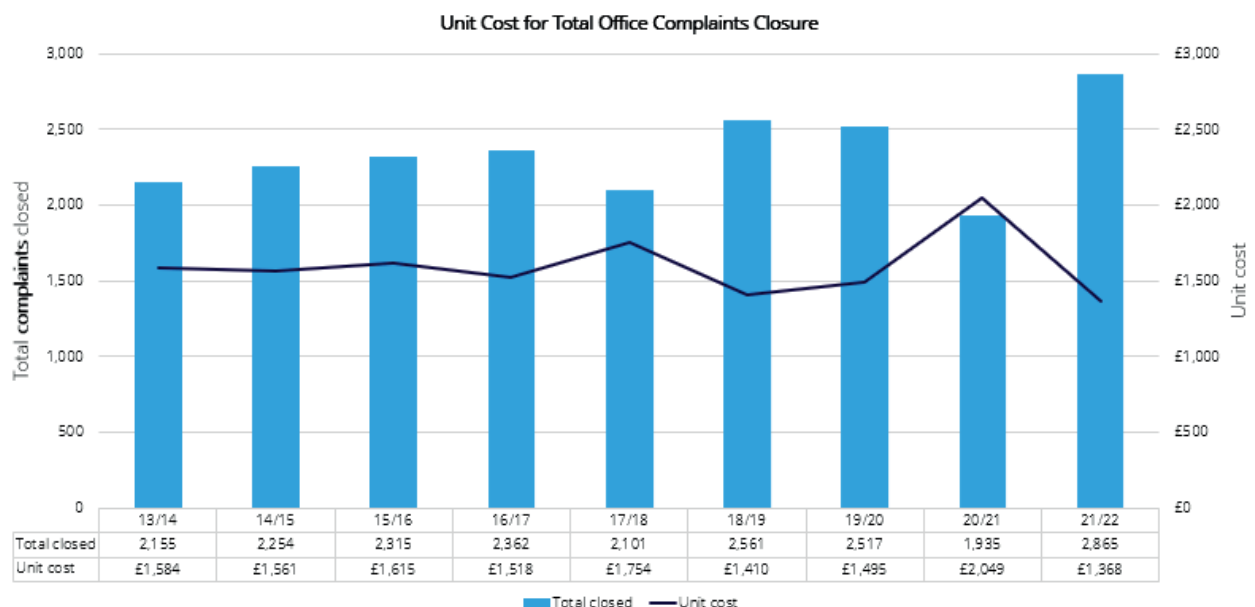
As outlined in last year's Annual Report & Accounts we will now present unit costs as calculated for our main activity – receiving, considering, investigating and responding to enquiries and complaints. This is our activity under Strategic Aim 1 and we will use the audited figures for Operating Costs by Strategic Aims, presented within these accounts.

The graphs below show firstly unit cost for all enquiry and complaints work closed in the year and secondly for complaints cases closed in the year.

### Unit Cost for Total Office Casework Closure



### Unit Cost for Total Office Complaints Closure



Note: These graphs are based on expenditure on this Strategic Objective and adjusted to 2021/22 prices. Figures reported here for previous years have been adjusted to reflect this approach.

The unit costs reflect changes to costs and to the number of complaints and enquiries completed during the year. The variation in unit costs reflects:

- In 2020/21, case closures were lower than in recent years, particularly in the first quarter due to the pandemic. In addition, there were delays, again particularly in the early months of the year, as public bodies were unable to respond to us normally in the early stages of the pandemic.
- In 2021/22, case closures were the highest ever since the creation of the Ombudsman's office, whilst our unit costs were significantly lower when adjusted for CPI inflation as at March 2022.

## Expenditure on activities under PSOW Act 2019

In 2021/22, we once again budgeted funding to be used specifically on the proactive implementation of the PSOW Act 2019. Spending in the year was:

<b>PSOW Act 2019: Expenditure in 2021/22</b>	<b>£000s</b>
Staff costs	267
Premises	14
Communications	10
Computer Services	8
Advisory and Legal	2
Training	1
<b>Total</b>	<b>302</b>
Budget	332
<b>Variance</b>	<b>30</b>

## Expenditure to 31 March 2022 compared to previous year

	2021/22	2020/21	Reasons for significant changes
	£000	£000	
Salaries	2,863	2,905	1.75% pay award, FTE decrease of 1 and greater use of Associate Investigation Officers during 2020/21.
Social Security costs	273	283	
Pension costs	745	758	
Pension fund charges	39	20	
<b>Total Pay</b>	<b>3,920</b>	<b>3,966</b>	
Rentals under operating leases	193	193	
External Audit fee	19	17	
Legal and professional fees	173	193	Continued management of professional advice and reduced legal fees.
Other property costs	171	168	
Computer services	331	309	Security and resilience upgrades.
Office costs	137	151	Equipment provided for staff to enable home working purchased in 2020/21.
Travel and Subsistence	6	1	Continued minimal travel due to COVID-19 pandemic.
Training and Recruitment	36	55	Most training delivered online at lower cost.
Communications	47	41	
Depreciation	61	61	
<b>Total other Administration Costs</b>	<b>1,174</b>	<b>1,189</b>	
<b>Gross Costs</b>	<b>5,094</b>	<b>5,155</b>	
Income	(17)	(991)	One-off repayment of Pension Fund Surplus in 2020/21.
<b>Net Expenditure</b>	<b>5,077</b>	<b>4,164</b>	
Capital	37	5	IT security and resilience upgrades.
<b>Net Resource</b>	<b>5,114</b>	<b>4,169</b>	

More detailed financial information can be found in the financial statements and notes that support the accounts.

*MM Morris*

**Michelle Morris**  
**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# Accountability Report 2021/22

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# Corporate Governance Report

## Ombudsman's Report

Under the Government of Wales Act 2006, the Office is financed through the Welsh Consolidated Fund (WCF) with any unspent cash balances repaid into the WCF after a certified copy of the accounts has been laid before the Welsh Parliament. This creates a further control in that there is a need to effectively manage the budget on both a cash and a resource basis. The salary of the office holder of the Public Services Ombudsman for Wales and the related costs are a direct charge on the WCF and are administered through the Welsh Parliament.

As at 31 March 2022, the Office comprised 74 permanent full and part-time staff based in Pencoed, Bridgend including the Ombudsman, Chief Operating Officer & Director of Improvement, Chief Legal Adviser & Director of Investigations, as well as investigation and support staff.

For the year 2021/22, my predecessor Nick Bennett was the Accounting Officer for the public funds with which the Welsh Parliament entrusts the Office to undertake its functions.

He has provided me with a letter of assurance confirming he has properly discharged the duties and responsibilities of Accounting Officer which I have considered when preparing this report.

The Welsh Parliament provided cash of £5.2 million for the funding of the Office. £120k of this overall funding is due to be returned to the WCF, being the unused cash balance at the year-end of £35k and a contingency sum of £85k which made available to us to fund any pay award above 1.75%. The pay award was settled at 1.75% therefore we are returning the full amount. The expenditure of the office was kept within the Estimate agreed in November 2020 and amended by a Supplementary Budget during 2021/22.

As referred to previously in the Report, our unit costs have fallen to their lowest levels and reflect the highest number of complaints and enquiries closed by the Office.

## Remuneration and Pension Liabilities

Details of the pay and related costs of the Ombudsman and the Office are shown in the Remuneration Report.

Pension obligations to present and past employees are discharged through the Principal Civil Service Pension Scheme (PCSPS) and the pensions paid directly to former Commissioners or their dependants.

Further details are given in the Pensions Disclosures.

## Corporate Governance

The office holder of the Public Services Ombudsman for Wales is a Corporation Sole.

The Audit & Risk Assurance Committee supports the Ombudsman by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and on the integrity of financial statements and the annual report. Further details are set out in the Annual Governance Statement.

## Register of Interests

A register of interests is maintained for the Ombudsman, Directors and members of the Advisory Panel and Audit & Risk Assurance Committee.

## Accounts Direction

Under the Accounts Direction issued by HM Treasury dated 21 December 2006, the Ombudsman is required to prepare accounts for the financial year ended 31 March 2022 in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (the FReM) issued by HM Treasury which was in force for 2021/22.

The accounts have been prepared to:

- Give a true and fair view of the state of affairs at 31 March 2022 and of the net resource out-turn, resources applied to objectives, recognised gains and losses and cash flows for the financial year then ended.
- Provide disclosure of any material expenditure or income that has not been applied for the purposes intended by the Welsh Parliament or material transactions that have not conformed to the authorities that govern them.

## Auditors

The Auditor General for Wales is the External Auditor of the accounts of the PSOW as laid down in paragraph 18 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2019.

The cost of the audit for 2021/22 was £19k (2020/21 = £17k).

As far as I am aware, my predecessor and I have taken all the steps necessary to make the auditors aware of any relevant audit information.

*MM Morris.*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

## Statement of Accounting Officer's Responsibilities

Under the Public Services Ombudsman (Wales) Act 2019, as Public Services Ombudsman for Wales I am required to prepare, for each financial year, resource accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the PSOW during the year.

The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the PSOW and its net resource out-turn, Statement of Financial Position and cash flows for the financial year.

In preparing the accounts, as the Accounting Officer, I am required to comply with the requirements of the 'Government Financial Reporting Manual' and in particular to:

- Observe the Accounts Direction issued by the Treasury including the relevant accounting and disclosure requirements and apply suitable accounting policies on a consistent basis.
- Make judgements and estimates on a reasonable basis.
- State whether applicable accounting standards as set out in the government financial reporting manual have been followed and disclose and explain any material departures in the accounts.
- Prepare the accounts on a going concern basis.
- Confirm that the annual report and accounts as a whole is fair, balanced and understandable.
- Take personal responsibility for the annual report and accounts and the judgements required for determining that it is fair, balanced and understandable.

My relevant responsibilities as Accounting Officer include the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the PSOW's assets, as set out in Managing Welsh Public Money and the Public Services Ombudsman (Wales) Act 2019.

As the Accounting Officer, I have taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to establish that PSOW's auditors are aware of that information. So far as I am aware, there is no relevant audit information of which the auditors are unaware.

# Annual Governance Statement 2021/22

## Status of the Public Services Ombudsman for Wales

As laid down in Schedule 1, paragraph 2 of the Public Services Ombudsman (Wales) Act 2019, the Ombudsman is a Corporation Sole holding Office under Her Majesty. The Ombudsman discharges the functions set down in legislation on behalf of the Crown. Schedule 1, paragraph 19 states that the Ombudsman is the Accounting Officer for the office of the Ombudsman.

## Scope of Responsibility

My predecessor Nick Bennett was Accounting Officer for the whole of the 2021/22 financial year and he has provided me with a letter of assurance confirming he has properly discharged the duties and responsibilities of Accounting Officer.

In undertaking the role of Accounting Officer, I and my predecessor have ensured that the office operates effectively and to a high standard of probity. In addition, the Ombudsman has responsibility for maintaining a sound system of internal control that supports the achievement of PSOW's policies, aims and objectives, whilst safeguarding the public funds and assets for which the Ombudsman is personally responsible, in accordance with the responsibilities set out in 'Managing Welsh Public Money'.

The Ombudsman is independent of the Welsh Parliament but is accountable to its Finance Committee and Public Accounts and Public Administration Committee for the use of resources provided. In determining the level of resources available to the office, the PSOW's budget proposals are considered by the Finance Committee of the Welsh Parliament in accordance with the process laid down in the Act. A combined Annual Report and Accounts is prepared for consideration by the Finance Committee.

I am required to include this Governance Statement with my annual report and accounts to explain how the governance of my office works and to ensure it meets the requirements of the Corporate Governance Code and The Orange Book: Management of Risk. To enable me to satisfy these requirements, I and my predecessor have maintained appropriate structures, systems and procedures that are comprehensive and provide me with evidence that the governance arrangements are working as intended across the whole organisation and its activities. Such arrangements include my Governance Framework, a comprehensive internal control environment, effective internal and external audit arrangements and robust financial management, risk planning and monitoring procedures.

## Strategic Planning and Performance Monitoring

In the **Strategic Plan** for the 3 years 2019/20 to 2021/22, my predecessor set the following for the Office:

### Our Vision for public services in Wales:

Services that actively listen and learn from complaints.

### Our Mission:

To uphold justice and improve public services.

### Our Strategic Aims:

#### Strategic Aim 1: Deliver Justice

A fair, independent, inclusive and responsive complaints service.

#### Strategic Aim 2: Promote Learning, Work to Improve Public Services

Promote learning from complaints and stimulate improvements on a wider scale.

#### Strategic Aim 3: Use Resources Wisely and Future-proof the Organisation

Identify and adopt best practice. Secure value for money and services that are fit for the future. Support staff and ensure good governance which supports and challenges us.

Whilst individual teams within the Office are charged with implementing the actions identified, the Management Team monitors progress made against targets and the outcomes achieved via monthly reports.

## System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable, and not absolute, assurance of effectiveness. It is based on an ongoing process designed to identify and prioritise the risks to the achievement of my policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The system has been in place in the office of the PSOW for the year ended 31 March 2022 and up to the date of approval of these accounts and accords with HM Treasury guidance. Internal controls were unaffected by changes resulting from the COVID-19 pandemic. No significant areas of internal control weaknesses have been identified from audit work and steps to improve controls further are implemented promptly and monitored by the Audit & Risk Assurance Committee.

## **Corporate Governance arrangements: Audit & Risk Assurance Committee**

Governance arrangements include an Audit & Risk Assurance Committee (ARAC). The Committee's responsibilities are:

### **a) Terms of Reference**

The Committee supports me by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements and the annual report.

### **b) Membership**

Membership comprises a minimum of four, and a maximum of eight, independent external members.

The membership of the Committee during 2021/22 was:

- Mr Ian Williams, former Group Chief Executive of Hendre Limited - Chair
- Mr Trevor Coxon, former Monitoring Officer of Wrexham County Borough Council
- Dr Tom Frawley CBE (until October 2021), former Assembly Ombudsman and Northern Ireland Commissioner for Complaints
- Mrs Anne Jones (until July 2021), former Assistant Information Commissioner
- Mr Jim Martin (until October 2021), former Scottish Public Services Ombudsman
- Mr John McSherry, former Senior Manager at Admiral Group Limited
- Mr Mike Usher, a former Director of Audit Wales
- Mrs Joanest Varney-Jackson (from October 2021), former Senior Lawyer for Welsh Parliament.

## c) Training

Members of the Committee are invited to assess their training needs annually. An induction programme is provided for all new members of the ARAC. During 2021 members took part in a Risk Workshop (June) and undertook Governance and Accountability training (October).

## d) Meetings

The Committee sets itself an annual work programme. There are generally four meetings of the Committee during the year. Due to the ongoing COVID-19 pandemic the majority of meetings in 2021/22 were held remotely using Zoom.

The Ombudsman attends ARAC Meetings and the Chief Operating Officer acts as Secretary to the Committee. The meetings were also regularly attended by internal and external auditors and appropriate members of the PSOW's Management Team.

At each meeting, the Committee received a number of standing agenda items. These include declarations of any identified fraud or losses, including any data losses. At each meeting, the Committee received a copy of the latest Budget Monitoring report considered by the Management Team. This is intended to provide the Committee with an assurance that there is regular scrutiny of the financial position of the office.

During the year, the Committee also received reports on a number of other appropriate matters within its Terms of Reference. They included the 9- and 12 month accounts, internal audit plans, internal audit reports, a review of the Whistleblowing Policy, updates on major IT developments, relevant financial and corporate governance matters. The Committee reviewed the Office's counter-fraud arrangements, in the context of the Cabinet Office Counter-Fraud Framework, and reviewed a proposed new anti-fraud policy, to satisfy itself that appropriate arrangements are in place. The Committee provided advice to me to ensure that the 2021/22 Annual Governance Statement included appropriate information and complied with best practice.

A standing item is risk management. At each meeting the Committee considered a report on the greatest identified risks. The Committee explored and challenged the reported risks to satisfy itself that key risks had been identified. The overall approach to risk management and risk mitigation was also considered at a workshop facilitated by the internal auditors. This resulted in a number of improvements to the risk management policy and process.

During the year, three members' terms of office ended, and one new member joined the Committee. The number of meetings attended, along with the number of meetings each member was eligible to attend, was as follows:



<b>Committee Member</b>	<b>Maximum number of attendances possible</b>	<b>Actual number of attendances</b>	<b>% attended</b>
Ian Williams (Chair)	4	4	100
Trevor Coxon	4	4	100
Tom Frawley	3	2	67
Anne Jones	2	2	100
Jim Martin	3	3	100
John McSherry	4	4	100
Mike Usher	4	4	100
Joanest Varney-Jackson	2	2	100

### e) Internal and External Audit

The Committee received regular reports from both the internal and external auditors. This was the first year for new internal auditors TIAA who attended all meetings. The work of internal audit during the year was planned based on their overall needs assessment and carried out through their agreed annual programme. Their reports highlighted a satisfactory internal control framework within the organisation and made recommendations for improvement where necessary.

In all but one audit, the level of assurance was considered 'Substantial', the highest assurance level, with one report giving 'Reasonable' assurance. A number of recommendations were made, and these have either been completed or will be completed in accordance with agreed timescales. The internal audits undertaken in 2021/22 and overall assessments were as follows:

	<b>Assurance level</b>
Systems – transition to Sage 200	<b>SUBSTANTIAL</b>
Complaints Handling (Casework)	<b>SUBSTANTIAL</b>
Governance – Audit & Risk Assurance Committee	<b>SUBSTANTIAL</b>
Cyber security	<b>REASONABLE</b>
<b>Financial Systems:</b>	
Budgetary Control	<b>SUBSTANTIAL</b>
Purchasing & payments	<b>SUBSTANTIAL</b>
Income	<b>SUBSTANTIAL</b>

The internal auditors' Annual Report for 2021/22 stated: "The Public Services Ombudsman for Wales has reasonable and effective risk management, control and governance processes in place". These findings also provide assurance that the arrangements in place are reducing the office's exposure to risk.

The Committee noted the thoroughness of the audit work, practicality of recommendations and the open and positive response of management to the recommendations made.

In respect of the previous financial year, the Committee considered the 2020/21 Annual Report and Accounts that included the Governance Statement of the office for 2020/21, together with the External Audit of Financial Statements Report and Management Letter. An unqualified opinion was given, following external audit work undertaken by Audit Wales, on the 2020/21 Accounts. There were no recommendations arising from the Audit.

Both Internal and External Auditors have the right to raise any matter through an open access policy to the Chair and, through that right, to bring any matter to the attention of the Committee. The Committee, by reviewing the programmes of both the External and the Internal Auditors, ensured that they were co operating effectively with each other. The quality of the audit work has been evaluated during the year through consideration of the audit reports and recommendations and dialogue at meetings between Committee Members and the Auditors.

To ensure that appropriate matters can be raised in confidence, the Chair of the Committee generally holds an annual meeting with representatives of the External and Internal Auditors. Such a meeting was held on 25 March 2022.

## f) Monitoring processes

At each meeting during 2021/22, the Committee received a report on progress made on the implementation of External and Internal Audit recommendations. Committee members were satisfied that all the recommendations made, had been implemented or will be implemented in accordance with agreed timescales.

## g) Annual Review and Assessment

This annual review is undertaken to evaluate the work of the Committee and to ensure that the work of the Audit & Risk Assurance Committee continues to comply with the Good Practice Principles set out in the HM Treasury Audit Committee Handbook. To assist the Committee in determining that it was complying with good practice, each member was invited to complete the National Audit Office's 'The Audit Committee self-assessment checklist'. Comments received from Committee members were considered in preparing the Annual Review for 2021/22.

The ARAC Annual Review concluded that it had received comprehensive assurances and information that was reliable and sufficient to enable it to carry out its responsibilities. Those assurances demonstrated a satisfactory overall internal control environment, financial reporting and the management of risk and of the quality of both the Internal and External Audit work undertaken.

The Committee was therefore able to provide assurances to support me effectively, as Public Services Ombudsman for Wales, to comply with my Accounting Officer responsibilities. The Committee provided evidence to assist in the preparation of this Annual Governance Statement.

## **Reporting of Personal Data Related Incidents**

All incidents involving personal data are reported to the Audit & Risk Assurance Committee, regardless of whether PSOW is at fault. Where PSOW is at fault, guidance issued by the Information Commissioner's Office (ICO) is considered to establish whether it is necessary to report the incident to that office. During 2021/22, there were no incidents that required reporting to the ICO.

## **Advisory Panel**

The Advisory Panel is a non-statutory forum whose main role is to provide support and advice to me in providing leadership and setting the strategic objectives of the office of the Public Services Ombudsman for Wales. The Panel also brings an external perspective to assist in the development of policy and practice.

The Panel was chaired by Anne Jones until July 2021 when her term of office concluded. Dr Jane Martin, former Local Government Ombudsman, took over as Chair in October 2021 on recommendation of Panel members. Trevor Coxon, Mike Usher and Ian Williams were members throughout the year. Dr Tom Frawley and Jim Martin reached the end of their terms of office during the year

Following a recruitment exercise, Ms Carys Evans, former Head of Data and Insight at S4C, joined the panel in October 2021.

The Advisory Panel is an advisory-only body and does not make decisions in its own right.

## The Risk and Control Framework

As required by 'Managing Welsh Public Money', I am supported by a professionally qualified Financial Accountant who carries out the responsibilities of a Finance Director as set out in that document.

Risk management and the risk register are standing agenda items for the Audit & Risk Assurance Committee, and the approach to risk management, together with risk appetite, is reviewed periodically.

I am continuing to enhance the robust internal control arrangements to ensure that the office has the capacity to identify, assess and manage risk effectively.

In undertaking this responsibility during the year ended 31 March 2022, my predecessor was supported by a Chief Operating Officer to whom some of his responsibilities have been delegated.

Bearing in mind the letter of assurance I have received from my predecessor, I am satisfied that the systems in place identify potential risks at an early stage and enable, through active management, the appropriate action to be taken to minimise any adverse impact on the office.

The Audit & Risk Assurance Committee receives regular reports on the risks relating to this office, explores the office's approach to those risks and provides comments and suggestions on current and emerging risks.

Risks are considered across a number of key areas or risk horizons. These are:

- operations, including operational support
- financial risks
- governance and legal risks
- reputational risks
- data and information management risks.

Key risks at the financial year-end were identified as follows:

Risk horizon	Risk affects:	Risk management and mitigation:	Residual risk:
<b>Operations &amp; operational support</b>	<p>Risks from continued high number of complaints received and fixed staff resources.</p> <p>Year-end open caseload up 48% on last year (and 34% up on 2019/20). Maladministration complaints up 45% on 2020/21 (and 22% on 2019/20).</p> <p>Impact – slower service, increased pressure on staff and risk of stress.</p>	<p>Maximise staff resources within resources available. Support staff performance. Work closely and supportively with public bodies to improve their complaints handling.</p>	<p>The continuing increase in number of new complaints, with fixed staff, means that the residual risk is considered <b>RED</b>.</p>
<b>Data and information management</b>	<p>Risk of cyber-attack, malware, ransomware or virus</p>	<p>Systems have been upgraded in accordance with recommendations. Maintain and monitor currency of antivirus and other security software and test effectiveness. Increase staff awareness and vigilance through training. Pursue Cyber Essentials Plus accreditation.</p>	<p>The increase in adverse cyber activity and the potential scale of the impact on PSOW of any successful attack means that the residual risk is considered <b>RED</b>.</p>

## Risk Assurance Framework Arrangements

<b>PSOW Framework</b>			
<ul style="list-style-type: none"> <li>• Strategic objectives from Corporate Plan</li> <li>• Work programme</li> <li>• Risk management</li> <li>• Anti-fraud policy</li> <li>• Governance framework</li> <li>• Policies, procedures and code of conduct</li> </ul>			
<b>Advisory Panel</b>	<b>Accounting Officer</b>	<b>Audit &amp; Risk Assurance Committee</b>	<b>Management Team</b>
Provides support and advice on vision, values and purposes as well as strategic direction and planning.	Governance. Decision making. Financial management. Risk management.	Reviews and monitors governance, risks and internal controls. Agrees annual governance statement.	3-year Corporate Plan. Operational Plan. Performance monitoring. Corporate policies. Risk management. Value for money.
<b>Central Guidance</b>	<b>PSOW policies, plans and risk register</b>		<b>Annual Governance Statement</b>
HM Treasury. FRoM. Managing Welsh Public Money. Public Sector Internal Audit.			
<b>Assurance Map Components</b>			
<b>1st line of defence</b> Strategic and operational delivery reporting. KPI reporting. Financial controls / Budget monitoring.	<b>2nd line of defence</b> Risk register reviews. Quality assurance. Information security assurance.		<b>3rd line of defence</b> Internal audit reports. Financial accountant spot checks.
Other assurances External audit. Scrutiny by Finance Committee and PA&PAC.			

I and my Management Team will continue to work to manage and minimise the risks in these key areas in the year ahead and the risks will be considered at each meeting of the Audit & Risk Assurance Committee.

## Budgeting Process

As Accounting Officer, I ensure that I have in place arrangements for tight control of the public money entrusted to me. The Management Team receives a monthly budget monitoring report setting out details of actual, against budgeted expenditure. Any unexpected expenditure issues that may arise during the year are considered so that appropriate action can be taken to remain within the budgeted expenditure where possible or to seek additional resources where cost pressures cannot be contained. In 2021/22 the April 2021 pay award was not settled until March 2022, creating uncertainty as to affordability of what might be agreed. In addition, the Ombudsman received a report recommending priority action to improve IT systems resilience, security and performance. Additional resources were secured to address these two issues. The additional resources to cover for a higher than anticipated pay award were not ultimately required and those funds are being returned.

As far as the process of producing the PSOW's financial estimate for 2022/23 is concerned, a paper setting out initial budget criteria was considered by the Advisory Panel in July 2021. Overall, the submission sought an increase of 5.7% (resource) to reflect pay and price increases and the substantial caseload increases experienced throughout the year. Following Finance Committee scrutiny in October, the Committee did not support the submission. A revised submission, seeking a 4.4% increase, was submitted and supported by the Committee. This was included in the Wales Annual Budget Motion March 2022.

## Conclusion

The Office's system of internal controls was unaffected by the pandemic and by homeworking. I can report that there were no significant weaknesses in the office's system of internal controls in 2021/22 which would affect the achievement of the office's policies, aims and objectives and that robust Corporate Governance is in operation with no breaches of the Corporate Governance Code.

*MM. Morris.*

**Michelle Morris**  
**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# Remuneration Report

## Public Services Ombudsman for Wales

The Government of Wales Act 2006 provides for my remuneration and associated national insurance and pension costs to be met from the Welsh Consolidated Fund, rather than being paid directly. These costs are included, for transparency, in the remuneration report.

### Remuneration

The following sections provide details of the remuneration and pension interest of the most senior management of the Office: Nick Bennett - Ombudsman, Chris Vinestock - Chief Operating Officer & Director of Improvement and Katrin Shaw - Chief Legal Adviser & Director of Investigations.

Single Total Figure of Remuneration					
2021/22					
Officials	Salary (£'000)	Bonus payments (£'000)	Benefits in Kind (to nearest £100)	Pension benefits (to nearest £1,000)	Total (£'000)
Nick Bennett	150-155	-	-	59,000	210-215
Chris Vinestock	105-110	-	-	27,000	135-140
Katrin Shaw	90-95	-	-	28,000	120-125

Single Total Figure of Remuneration					
2020/21					
Officials	Salary (£'000)	Bonus payments (£'000)	Benefits in Kind (to nearest £100)	Pension benefits (to nearest £1,000)	Total (£'000)
Nick Bennett	150-155	-	-	59,000	210-215
Chris Vinestock	105-110	-	-	75,000	180-185
Katrin Shaw	90-95	-	-	61,000	150-155



## Salary

Salary includes gross salary, overtime and any other allowances to the extent that they are subject to UK taxation.

## Benefits in kind

The monetary value of benefits in kind, covers any expenditure paid by the PSOW and treated by HM Revenue and Customs as a taxable emolument. There was no such expenditure.

## Bonuses

No bonus was paid during the year to me or to any staff within my office, as no bonus scheme is in operation.

## Pay multiples

The banded remuneration of the highest-paid director in the financial year 2021/22 was £150-£155,000 (2020/21 = £150-£155,000).

The FreM for 2021/22 requires increased reporting on fair pay disclosures.

	2021/22	2020/21
25 <sup>th</sup> percentile remuneration	£32,799	£32,235
25 <sup>th</sup> percentile pay ratio	4.6	4.7
50 <sup>th</sup> percentile remuneration	£44,625	£43,857
50 <sup>th</sup> percentile pay ratio	3.4	3.5
75 <sup>th</sup> percentile remuneration	£48,876	£44,865
75 <sup>th</sup> percentile pay ratio	3.1	3.4

In 2021/22, no employee received remuneration in excess of the highest-paid director (2020/21 = none).

Remuneration ranged from £20,000 to £155,000 (2020/21= £20,000-£155,000). Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, temporary payments, employer pension contributions and the cash equivalent transfer value of pensions.

The percentage change from the previous financial year in respect of highest paid director was nil. The average percentage change from the previous financial year in respect of employees taken as a whole was 3%.

## Pay awards

Staff pay is linked to the pay awards made to employees within Local Government in England and Wales. In line with that procedure, a 1.75% pay increase was awarded to staff in March 2022 backdated to April 2021.

## Pensions

Pension entitlements for the persons shown earlier in the report are detailed below:

### Pension Liabilities

The pension obligations to present and past employees are discharged through the Principal Civil Service Pension Scheme (PCSPS) and the pensions paid directly to former Commissioners or their dependants.

Name	As at 31/03/22					As at 31/03/21
	Accrued pension at pension age and related lump sum	Real increase in pension and related lump sum at pension age	CETV	Real Increase in CETV	Employer contribution to partnership pension accounts	CETV
	£000	£000	£000	£000	Nearest £100	£000
Nick Bennett	50-55	2.5-5	688	33	-	623
Chris Vinestock	70-75	0-2.5	1068	15	-	997
Katrin Shaw	40-45	0-2.5	666	13	-	617

CETV refers to the Cash Equivalent Transfer Value, and further information can be found in the Pensions Disclosures.

## Sickness

During the year, an average of 7.2 days per employee were lost through sickness, compared with 3.0 days in 2020/21. This is the equivalent of 2.7% (1.1% in 2020/21) of total possible workdays. Short-term absences fluctuate from year to year and increased slightly in 2021/22. Long-term sickness increased from 0.5% of days to 1.7%.

This increase is due to several members of staff incurring absence due to stress, though much of this was not work-related. Stress overall accounted for 59% of days lost, with work-related stress accounting for 15% of days lost.

## Reporting of Civil Service and other compensation schemes

No exit packages were paid in 2021/22 (2020/21 Nil).

### Advisory Panel and Audit & Risk Assurance Committee

The following non-pensionable payments, based on a daily rate, were made to members of the Advisory Panel and Audit & Risk Assurance Committee:

	2021/22	2020/21
Ian Williams	3,150	2,011
Jane Martin	2,350	1,482
Mike Usher	2,100	1,050
Jim Martin	1,925	1,711
Trevor Coxon	1,925	1,711
John McSherry	1,800	900
Anne Jones	1,575	2,221
Tom Frawley	1,225	1,711
Joanest Varney-Jackson	1,200	-
Carys Evans	1,050	-
Jonathan Morgan	-	1,082
Rhiannon Ivens	-	900

These figures also include payments made to members for attendance at risk workshops and training sessions during 2021/22.

For staff reporting issues see the Annual Equality Report.

*MM. Morris.*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# Welsh Parliament Accountability and Audit Report

In addition to the primary statements prepared under **International Financial Reporting Standards (IFRS)**, the Government Financial Reporting Manual (FRoM) requires the Ombudsman to prepare a statement and supporting notes to show resource out-turn against the Supply Estimate presented to the Senedd, in respect of each request for resource.

## Summary of Net Resource Out-turn for year ending 31 March 2022

	Revised Estimate			Out-turn				2020/21
	Gross Expenditure	Income	Net Total	Gross Expenditure	Income	Net Total	Net total compared to estimate	Net Total
	£000	£000	£000	£000	£000	£000	£000	£000
Revenue	5,259	(17)	5,242	5,094	(17)	5,077	165	4,164
Capital	46	-	46	37	-	37	9	5
<b>Resource DEL</b>	<b>5,305</b>	<b>(17)</b>	<b>5,288</b>	<b>5,131</b>	<b>(17)</b>	<b>5,114</b>	<b>174</b>	<b>4,169</b>
Resource AME	-	-	-	-	-	-	-	974
<b>Total Resources</b>	<b>5,305</b>	<b>(17)</b>	<b>5,288</b>	<b>5,131</b>	<b>(17)</b>	<b>5,114</b>	<b>174</b>	<b>5,143</b>
<b>Net Cash Requirement</b>	<b>5,246</b>	<b>-</b>	<b>5,246</b>	<b>5,143</b>	<b>(17)</b>	<b>5,126</b>	<b>120</b>	<b>4,076</b>

The Revised Estimate for 2021/22 includes a contingency of £85,000 for any additional pay award above 1.75%. The pay award was settled at 1.75% therefore we are returning the full amount. This gives a true operational net total out-turn compared to estimate of:

Resource    £89,000  
Cash        £35,000

The 2020/21 figures include a one-off pension surplus adjustment. The Ombudsman's salary is paid directly from the Welsh Consolidated Fund with only the reimbursement of actual business expenses included in the PSOW accounts.

# Reconciliation of Net Resource to Net Cash Requirements

for the year ended 31 March 2022

	Note	2021/22			2020/21
		Revised Estimate	Net Total Out-turn	Net total out-turn compared to revised estimate	Out-turn
		£000	£000	£000	£000
Net Revenue	2-4	5,242	5,077	165	4,164
Net Capital	6	46	37	9	5
Resource AME		-	-	-	974
<b>Total Resources</b>		<b>5,288</b>	<b>5,114</b>	<b>174</b>	<b>5,143</b>
Movement in provisions	10	-	(11)	11	10
Capital charges	6	(62)	(61)	(1)	(61)
Movements in working capital	7-9	20	84	(64)	(42)
Adjustments		-	-	-	(974)
<b>Net cash requirement</b>		<b>5,246</b>	<b>5,126</b>	<b>120</b>	<b>4,076</b>

*MM Morris*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

# The Certificate and Independent Auditor's Report of the Auditor General for Wales to the Senedd

## Report on financial statements

### Opinion

I certify that I have audited the financial statements of the Public Services Ombudsman for Wales for the year ended 31 March 2022 under paragraph 18 (2) of Schedule 1 of the Public Services Ombudsman (Wales) Act 2019. These comprise the Summary of Net Resource Out-turn, Statement of Comprehensive Net Expenditure, Statement of Financial Position, Consolidated Statement of Cash Flows, Statement of Changes in Taxpayers Equity and related notes, including a summary of significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards as interpreted and adapted by HM Treasury's Financial Reporting Manual.

In my opinion the financial statements:

- give a true and fair view of the state of the Public Services Ombudsman for Wales' affairs as at 31st March 2022 and of its net cash requirement, net resource outturn and net operating cost, for the year then ended;
- have been properly prepared in accordance with international accounting standards as interpreted and adapted by HM Treasury's Financial Reporting Manual and
- have been properly prepared in accordance with HM Treasury directions issued under the Public Services Ombudsman (Wales) Act 2019.

### Opinion on regularity

In my opinion, in all material respects, the expenditure and income in the financial statements have been applied to the purposes intended by the Senedd and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Basis of opinions

I conducted my audit in accordance with applicable law and International Standards on Auditing in the UK (ISAs (UK)) and Practice Note 10 "Audit of Financial Statements

of Public Sector Entities in the United Kingdom". My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I am independent of the body in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinions.

## Conclusions relating to going concern

In auditing the financial statements, I have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

My responsibilities and the responsibilities of the Accounting Officer with respect to going concern are described in the relevant sections of this report.

## Other information

The other information comprises the information included in the annual report other than the financial statements and my auditor's report thereon. Legislation and directions issued to the Public Services Ombudsman for Wales do not specify the content and form of the other information to be presented with the financial statements. The Accounting Officer is responsible for the other information in the annual report. My opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in my report, I do not express any form of assurance conclusion thereon. My responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or knowledge obtained in the course of the audit, or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

## Report on other requirements

### Opinion on other matters

As legislation and directions issued to the Public Services Ombudsman for Wales do not specify the content and form of the other information to be presented with the financial statements, I am not able to confirm that the other information to be issued with financial statements has been prepared in accordance with guidance.

In my opinion, based on the work undertaken in the course of my audit, the information given in the Annual Report is consistent with the financial statements.

Although there are no legislative requirements for a Remuneration Report, the Public Services Ombudsman for Wales has prepared such a report and in my opinion, that part ordinarily required to be audited has been prepared in accordance with HM Treasury guidance.

Although there are no legislative requirements for an Annual Governance Statement, based on the work undertaken in the course of my audit the information given in the Annual Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and the Annual Governance Statement has been prepared in accordance with HM Treasury guidance.

### Matters on which I report by exception

In the light of the knowledge and understanding of the body and its environment obtained in the course of the audit, I have not identified material misstatements in the Annual Report.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- proper accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my team;
- the financial statements are not in agreement with the accounting records and returns;
- information specified by HM Treasury regarding the remuneration and other transactions is not disclosed; or
- I have not received all of the information and explanations I require for my audit.



## Responsibilities

### Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for preparing the financial statements in accordance with the Public Services Ombudsman for Wales Act 2019 and HM Treasury directions made there under, for being satisfied that they give a true and fair view and for such internal control as the Accounting Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accounting Officer is responsible for assessing the body's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless deemed inappropriate.

### Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. I design procedures in line with my responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud.

My procedures included the following:

- Enquiring of management, and those charged with governance, including obtaining and reviewing supporting documentation relating to the Public Services Ombudsman for Wales' policies and procedures concerned with:
  - identifying, evaluating and complying with laws and regulations and whether they were aware of any instances of non-compliance;
  - detecting and responding to the risks of fraud and whether they have knowledge of any actual, suspected or alleged fraud; and
  - the internal controls established to mitigate risks related to fraud or non-compliance with laws and regulations.

- Considering as an audit team how and where fraud might occur in the financial statements and any potential indicators of fraud. As part of this discussion, I identified potential for fraud in the following areas: revenue recognition, posting of unusual journals and
- Obtaining an understanding of the Public Services Ombudsman for Wales' framework of authority, as well as other legal and regulatory frameworks that the Public Services Ombudsman for Wales operates in, focusing on those laws and regulations that had a direct effect on the financial statements or that had a fundamental effect on the operations of the Public Services Ombudsman for Wales.

In addition to the above, my procedures to respond to identified risks included the following:

- reviewing the financial statement disclosures and testing to supporting documentation to assess compliance with relevant laws and regulations discussed above;
- enquiring of management, the Audit and Risk Assurance Committee and legal advisors about actual and potential litigation and claims;
- reading minutes of meetings of those charged with governance and the Advisory Board; and
- in addressing the risk of fraud through management override of controls, testing the appropriateness of journal entries and other adjustments; assessing whether the judgements made in making accounting estimates are indicative of a potential bias; and evaluating the business rationale of any significant transactions that are unusual or outside the normal course of business; and

I also communicated relevant identified laws and regulations and potential fraud risks to all audit team and remained alert to any indications of fraud or non-compliance with laws and regulations throughout the audit.

The extent to which my procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the Public Services Ombudsman for Wales' controls, and the nature, timing and extent of the audit procedures performed.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my auditor's report.

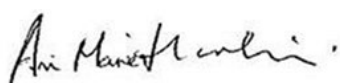
## Responsibilities for regularity

The Accounting Officer is responsible for ensuring the regularity of financial transactions.

I am required to obtain sufficient evidence to give reasonable assurance that the expenditure and income have been applied to the purposes intended by the Senedd and the financial transactions conform to the authorities which govern them.

## Report

I have no observations to make on these financial statements.



**Ann-Marie Harkin**  
**For and on behalf of**  
**Auditor General for Wales**  
22 July 2022

**24 Cathedral Road**  
**Cardiff**  
**CF11 9LJ**

# Annual Accounts 2021/22

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# Statement of Comprehensive Net Expenditure

for the year ended 31 March 2022

Administration costs	Note	2021/22	2020/21
		£000	£000
Staff costs	2	3,920	3,966
Other non-staff administration costs	3	1,174	1,189
<b>Gross Administration Costs</b>		<b>5,094</b>	<b>5,155</b>
Operating Income	4	(17)	(991)
<b>Net Administration Costs</b>		<b>5,077</b>	<b>4,164</b>
<b>Net Revenue Out-turn</b>		<b>5,077</b>	<b>4,164</b>

Notes 1 to 19 form part of these statements.

All activities commenced in the period are continuing.

## Statement of Financial Position

for the year ended 31 March 2022

	Note	2021/22	2020/21
		£000	£000
<b>Non-current assets</b>			
Property, Plant and Equipment	6a	150	170
Intangible assets	6b	120	124
Receivables due after more than 1 year	7	-	1
		<b>270</b>	<b>295</b>
<b>Current Assets</b>			
Trade and other receivables	7	255	228
Cash and cash equivalents	8	120	20
		<b>375</b>	<b>248</b>
<b>Total assets</b>		<b>645</b>	<b>543</b>
<b>Current liabilities</b>			
Trade and other payables	9	(297)	(250)
Provisions less than 1 year	10	(45)	(45)
		<b>(342)</b>	<b>(295)</b>
<b>Total assets less current liabilities</b>		<b>303</b>	<b>248</b>
<b>Non-current liabilities</b>			
Trade and other payables due after 1 year	9	(10)	(15)
Provisions greater than 1 year	10	(482)	(471)
		<b>(492)</b>	<b>(486)</b>
<b>Total assets less liabilities</b>		<b>(189)</b>	<b>(238)</b>
<b>General Fund</b>		<b>(189)</b>	<b>(238)</b>

Notes 1 to 19 and the Pension Disclosures form part of these statements.

The financial statements were approved by the Accounting Officer and authorised for issue on 20 July 2022 by:

*MM Morris.*

**Michelle Morris**

**Accounting Officer**

Public Services Ombudsman for Wales

20 July 2022

## Statement of Cash Flows

for the year ended 31 March 2022

	Note	2021/22	2020/21
		£000	£000
Net cash outflow from operating activities	11	(5,089)	(4,071)
Net cash outflow from investing activities	12	(37)	(5)
Financing from Welsh Parliament	13	5,246	4,096
Prior year cash balance repaid		(20)	(48)
<b>Net increase (decrease) in cash equivalents after adjustments for payments to Welsh Consolidated Fund</b>		<b>100</b>	<b>(28)</b>
<b>Cash and cash equivalents at beginning of period</b>		<b>20</b>	<b>48</b>
<b>Cash and cash equivalents at end of period</b>		<b>120</b>	<b>20</b>

Notes 1 to 19 form part of these statements.

## Statement of Changes in Taxpayers' Equity

for the year ended 31 March 2022

General Fund	2021/22	2020/21
	£000	£000
<b>Balance as at 1 April</b>	<b>(238)</b>	<b>930</b>
Net operating costs	(5,077)	(4,164)
Funding by Welsh Parliament	5,246	4,096
Due back to Welsh Consolidated Fund:		
Cash	(120)	(20)
Non-operating income	-	-
Actuarial re-measurement of LGPS pension fund	-	(106)
Pension Fund Surplus	-	(974)
<b>Total recognised income and expense for year</b>	<b>49</b>	<b>(1,168)</b>
<b>Balance as at 31 March</b>	<b>(189)</b>	<b>(238)</b>

Notes 1 to 19 and the Pension Disclosures form part of these statements.



# Notes to the Financial Statements

## 1. Statement of Accounting Policies

These financial statements have been prepared in accordance with the Government Financial Reporting Manual (the FReM) issued by HM Treasury which is in force for 2021/22. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adopted or interpreted for the public sector. Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the PSOW for the purpose of giving a true and fair view has been selected. The particular accounting policies adopted by the PSOW are described below. They have been applied consistently in dealing with items considered material in relation to the accounts.

### 1.1 Accounting Convention

These accounts have been prepared under the historical cost convention modified to account for any revaluation of fixed assets, where material to their value to the business, by reference to their current costs.

### 1.2 Property, Plant and Equipment

Expenditure on property, plant and equipment is capitalised where the purchases are expected to have a useful life extending over more than 1 year and the cost exceeds £5k. Assets costing less than £5k may be capitalised providing they are capital in nature and are part of a larger scheme that is, in total, more than £5k. Assets are shown at cost less an allowance for depreciation. On initial recognition, fixed assets are measured at cost, including such costs as installation, which are directly attributable to bringing them into working condition for their intended use. In reviewing the costs of fixed assets previously acquired and the prices paid for new acquisitions during the year there is no material difference between the historic net book value of the assets and their replacement cost less depreciation.

### 1.3 Depreciation

Assets are depreciated at rates calculated to write them down to zero or, if applicable, estimated residual value on a straight-line basis over their estimated useful life following an initial charge of a full month's depreciation in the month of purchase. Assets in the course of construction are depreciated from the month in which the asset is brought into use.

Except where otherwise noted asset lives are assumed to be the following:

Plant	10 years or the lease term if shorter
Furniture and other fittings	10 years or in the case of fittings, the lease term
Computers and other equipment	3 to 10 years

## 1.4 Intangible assets

Purchased computer software licences and developed software are capitalised where expenditure of £5k or more is incurred, and the useful life is more than 1 year. Intangible assets costing less than £5k may be capitalised providing they are capital in nature and are part of a larger scheme that is, in total, more than £5k. Intangible assets are reviewed annually for impairment and are stated at amortised historic cost. Software licences are amortised over the shorter of the term of the licence and the useful economic life of the computer equipment on which they are installed. This would usually be from 3 to 5 years. Developed software is amortised over the estimated useful life. In the year of acquisition, amortisation charges commence when the asset is brought into use.

## 1.5 Value Added Tax

The PSOW is not registered for VAT. Expenditure is therefore disclosed gross of VAT.

## 1.6 Pensions

The pension obligations to present and past employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS) and by direct payment to previous Commissioners for Local Administration in Wales or any surviving beneficiaries. Full details are disclosed in the Pension Disclosures at the end of the Financial Statements. The costs of providing these pensions are charged through the Statement of Comprehensive Net Expenditure.

## 1.7 Early departure costs

Where the PSOW is required to meet the additional cost of benefits beyond the normal benefits payable by the appropriate pension scheme in respect of employees who retire early, these costs are charged to the Statement of Comprehensive Net Expenditure in full when the liability arises.

## 1.8 Leases

Expenditure on leased property and equipment is charged in the period to which it relates.

## 1.9 Staff Costs

In line with IAS 19, short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, as well as non-monetary benefits for current employees, are recognised when an employee has rendered services in exchange for those benefits.

## 1.10 Provisions

These are sums which are of uncertain timing or amount at the balance sheet date and represent the best estimate of the expenditure required to settle the obligations. Where the effect of the time value of money is significant, the estimated risk adjusted cash flows are discounted using the recommended HM Treasury discount rate.

## 1.11 Income

All income is recognised in the Statement of Comprehensive Net Expenditure in accordance with IAS 18 and IFRS 15.

## 1.12 Impact of Standards Not Yet Effective

Standard	Effective date	Further details
IFRS 16 Leases	2022-23	<p>IFRS 16 will replace the current leases standard IAS 17 and requires a lessee to recognise assets and liabilities for leases with a term of more than 12 months, unless the underlying asset is of low value. A lessee is required to recognise a right of use asset representing its right to use the underlying leased asset and a lease liability representing its obligation to make lease payments. As a consequence, a lessee also recognises depreciation of the right-of-use asset and interest on the lease liability and classifies cash repayments of the lease liability into a principal and interest portion. This is a significant change in lease accounting.</p> <p>From 1 April 2022, our office building will be recognised as a new right-of-use asset and it will be depreciated over the anticipated future lease period. This change will result in an increase to the depreciation and interest finance charges in the Ombudsman's budget.</p> <p>For PSOW the potential impact of implementing the standard will be:</p> <ul style="list-style-type: none"> <li>• Creation of right-of-use asset valued at £685k</li> <li>• Premises and facilities – a decrease of £198k</li> <li>• Change in working capital – an increase of £198k</li> <li>• Interest – a new charge of £7k</li> <li>• Depreciation – an increase of £204k</li> </ul> <p>Overall, there will be an increase in resource expenditure of £13k but no impact on the cash requirement from the Welsh Consolidated Fund.</p>
IFRS 17 Insurance Contracts	2023-24 at earliest	<p>IFRS 17 replaces IFRS 4 Insurance Contracts, and requires a current measurement model, using updated information on obligations and risks, and requiring service results to be presented separately from finance income or expense. It applies to all insurance contracts issued, irrespective of the type of entity issuing the contracts, so is not relevant only for insurance companies.</p>

## 2. Staff Costs and Numbers

The aggregate employment costs were as follows:

	2021/22	2020/21
	£000	£000
Permanent staff:		
Salaries	2,836	2,856
Social Security costs	272	280
Pension costs	745	751
Pension fund charges	39	20
<b>Total</b>	<b>3,892</b>	<b>3,907</b>
Temporary staff:		
Salaries	27	49
Social Security costs	1	3
Pension costs	-	7
<b>Total</b>	<b>28</b>	<b>59</b>
<b>Total Staff Costs</b>	<b>3,920</b>	<b>3,966</b>

The average number of whole-time equivalent persons employed (including senior management and fixed term appointments) during the year was as follows:

	2021/22	2020/21
	No.	No.
Directors	2	2
Communications and PA	3	3
Complaints and Investigations	49	51
Improvement Team	5	5
Support	8	7
<b>Total</b>	<b>67</b>	<b>68</b>

### 3. Non-Staff Administration Costs

	2021/22	2020/21
	£000	£000
Rentals under operating leases	193	193
External Audit fee	19	17
Legal and professional fees	173	193
Other property costs	171	168
Computer services	331	309
Office costs	137	151
Travel and Subsistence	6	1
Training and Recruitment	36	55
Communications	47	41
<b>Sub-total</b>	<b>1,113</b>	<b>1,128</b>
Depreciation	36	37
Amortisation charge	25	24
Loss on disposal	-	-
<b>Sub-total</b>	<b>61</b>	<b>61</b>
<b>Total Other Administration Costs</b>	<b>1,174</b>	<b>1,189</b>

The 2020/21 figures have been restated to move the £45k service charge cost from “rentals under operating leases” to “other property costs” in preparation for the implementation of IFRS 16 from 1 April 2022.

### 4. Operating Income

	2021/22	2020/21
	£000	£000
Seconded staff	(16)	(16)
Pension Fund Surplus Repayment	-	(974)
Other – Future Generations Commissioner	(1)	(1)
<b>Total</b>	<b>(17)</b>	<b>(991)</b>

The 2020/21 figures include a one-off pension surplus repayment of £974k.

## 5. Operating Costs by Strategic Aims

The costs of providing a first-class Ombudsman service to Wales are set out below. We have 3 strategic aims for delivering our mission and the allocation of costs to each of the aims has been based on the following:

- an estimate of the staff time spent on the objective
- direct allocation of expenditure where applicable
- apportionment of other costs pro rata to the estimate of staff time.

	2021/22		2020/21	
	£000	%	£000	%
<b>Strategic Aim 1:</b> A fair, independent, inclusive and responsive complaints service.	3,918	77.2	3,965	77.2
<b>Strategic Aim 2:</b> Promote learning from complaints and stimulate improvements on a wider scale.	944	18.6	959	18.7
<b>Strategic Aim 3:</b> Identify and adopt best practice. Secure value for money and services that are fit for the future. Support staff and ensure good governance which supports and challenges us.	215	4.2	214	4.1
<b>Net Resources Out-turn</b>	<b>5,077</b>	<b>100.0</b>	<b>5,138</b>	<b>100.0</b>

The Aims analysis excludes capital expenditure.

## 6a. Property, Plant and Equipment

2021/22	Plant	Computers and other equipment	Furniture and other fittings	Total
	£000	£000	£000	£000
<b>Cost or valuation at 1 April</b>	<b>156</b>	<b>224</b>	<b>442</b>	<b>822</b>
Additions	-	16	-	16
Disposals	-	-	-	-
<b>At 31 March</b>	<b>156</b>	<b>240</b>	<b>442</b>	<b>838</b>
<b>Depreciation as at 1 April</b>	<b>(156)</b>	<b>(154)</b>	<b>(342)</b>	<b>(652)</b>
Charged in the year	-	(17)	(19)	(36)
Disposals	-	-	-	-
<b>At 31 March</b>	<b>(156)</b>	<b>(171)</b>	<b>(361)</b>	<b>(688)</b>
<b>Carrying amount as at 31 March 2022</b>	<b>-</b>	<b>69</b>	<b>81</b>	<b>150</b>
Carrying amount as at 31 March 2021	-	70	100	170

2020/21	Plant	Computers and other equipment	Furniture and other fittings	Total
	£000	£000	£000	£000
<b>Cost or valuation at 1 April</b>	<b>156</b>	<b>223</b>	<b>438</b>	<b>817</b>
Additions	-	1	4	5
Disposals	-	-	-	-
<b>At 31 March</b>	<b>156</b>	<b>224</b>	<b>442</b>	<b>822</b>
<b>Depreciation as at 1 April</b>	<b>(156)</b>	<b>(136)</b>	<b>(323)</b>	<b>(615)</b>
Charged in the year	-	(18)	(19)	(37)
Disposals	-	-	-	-
<b>At 31 March</b>	<b>(156)</b>	<b>(154)</b>	<b>(342)</b>	<b>(652)</b>
<b>Carrying amount as at 31 March 2021</b>	<b>-</b>	<b>70</b>	<b>100</b>	<b>170</b>
Carrying amount as at 31 March 2020	-	87	115	202



## 6b. Intangible Assets

2021/22	Information Technology	Software Licences	Total
	£000	£000	£000
<b>Cost or valuation at 1 April</b>	<b>497</b>	<b>52</b>	<b>549</b>
Additions	21	-	21
Disposals	-	-	-
<b>At 31 March</b>	<b>518</b>	<b>52</b>	<b>570</b>
<b>Amortisation as at 1 April</b>	<b>(373)</b>	<b>(52)</b>	<b>(425)</b>
Amortisation charged in the year	(25)	-	(25)
Disposals	-	-	-
<b>At 31 March</b>	<b>(398)</b>	<b>(52)</b>	<b>(450)</b>
<b>Carrying Value as at 31 March 2022</b>	<b>120</b>	<b>-</b>	<b>120</b>
Carrying Value as at 31 March 2021	124	-	124

2020/21	Information Technology	Software Licences	Total
	£000	£000	£000
<b>Cost or valuation at 1 April</b>	<b>497</b>	<b>52</b>	<b>549</b>
Additions	-	-	-
Disposals	-	-	-
<b>At 31 March</b>	<b>497</b>	<b>52</b>	<b>549</b>
<b>Amortisation as at 1 April</b>	<b>(349)</b>	<b>(52)</b>	<b>(401)</b>
Amortisation charged in the year	(24)	-	(24)
Disposals	-	-	-
<b>At 31 March</b>	<b>(373)</b>	<b>(52)</b>	<b>(425)</b>
<b>Carrying Value as at 31 March 2021</b>	<b>124</b>	<b>-</b>	<b>124</b>
Carrying Value as at 31 March 2020	148	-	148

In the opinion of the Public Services Ombudsman for Wales there is no material difference between the net book value of assets at current values and at their historic cost.

## 7. Trade and other Receivables

	2021/22	2020/21
	£000	£000
<b>Amounts falling due within 1 year</b>		
Prepayments	255	228
Trade debtors	-	-
<b>Amounts falling due after more than 1 year</b>		
Prepayments	-	1
<b>Total</b>	<b>255</b>	<b>229</b>

## 8. Cash and Cash Equivalents

Any bank balance held at the year-end must be returned to the Welsh Consolidated Fund under the Government of Wales Act 2006.

A figure of £120k (£20k in 2020/21) has been included within the accounts, being the net balance at the year-end on all the bank accounts operated by the Public Services Ombudsman for Wales, irrespective of whether the individual account is in debit or credit.

The £120k balance due to be returned to the Welsh Consolidated Fund in 2022/23 is made up of a cash balance at the year-end of £35k, as well as an unused contingency sum of £85k which was made available to manage the risk of a late pay award settlement in March 2022.

## 9. Trade Payables and other Current Liabilities

	2021/22	2020/21
	£000	£000
<b>Amounts falling due in 1 year</b>		
Untaken annual leave	122	175
Deferred rent reduction	5	5
Welsh Consolidated Fund - unspent balances	120	20
Trade payables	3	5
Accruals	47	45
	297	250
<b>Amounts falling due in more than 1 year</b>		
Deferred rent reduction	10	15
<b>Total</b>	<b>307</b>	<b>265</b>

## 10. Provisions for Liabilities and Charges

	2021/22				2020/21
	Pensions for Former Commissioners	Dilapidation Costs	Other Costs	Total	Total
	£000	£000	£000	£000	£000
Balance at 1 April	210	306	-	516	526
Additional provision required	37	17	-	54	31
Discount rate movement	2	-	-	2	3
Provisions utilised in the year	(45)	-	-	(45)	(44)
<b>Balance at 31 March</b>	<b>204</b>	<b>323</b>	<b>-</b>	<b>527</b>	<b>516</b>

Analysis of expected timings of payment of provisions:

	2021/22	2020/21
	£000	£000
Payable within 1 year	46	45
Payable within 2 to 5 years	474	455
Payable in more than 5 years	7	16
<b>Balance at 31 March 2022</b>	<b>527</b>	<b>516</b>

Pension provisions are calculated based on the National Life Tables for England and Wales issued by the Office of National Statistics. Later year pension increases are in line with GDP deflator information issued by HM Treasury. The discount factor has been amended to -1.30% for the financial year (-0.95% in 2020/21) in line with the guidance issued by the Treasury. Two surviving spouses of former Commissioners remain as a pension liability.

## 11.Reconciliation of Operating Cost to Operating Cash Flows

	Notes	2021/22	2020/21
		£000	£000
<b>Net operating cost</b>		<b>(5,077)</b>	<b>(4,164)</b>
Adjust for non-cash items	3	61	61
Decrease/(Increase) in trade and other receivables	7	(26)	(21)
Increase/(Decrease) in trade and other payables	9	42	35
Movement in provisions	10	11	(10)
Movement in cash repaid to Welsh Consolidated Fund	8	(100)	28
<b>Net cash outflow from operating activities</b>		<b>(5,089)</b>	<b>(4,071)</b>

## 12.Non-Current Asset Expenditure and Financial Investment

	2021/22	2020/21
	£000	£000
Purchases of property, plant and equipment	(16)	(5)
Proceeds of disposals of property, plant and equipment	-	-
Purchases of intangible assets	(21)	-
<b>Net cash outflow from investing activities</b>	<b>(37)</b>	<b>(5)</b>

### 13. Reconciliation of Net Cash Requirement to Increase/ (Decrease) in Cash

	2021/22	2020/21
	£000	£000
Net Cash Requirement:		
Operating activities	(5,089)	(4,071)
Capital Expenditure	(37)	(5)
	<b>(5,126)</b>	<b>(4,076)</b>
Financing from Welsh Parliament	5,246	4,096
Repayment to Welsh Consolidated Fund	(20)	(48)
<b>Increase/(Decrease) in cash and cash equivalents</b>	<b>100</b>	<b>(28)</b>

### 14. Commitments under Operating Leases

	2021/22	2020/21
	£000	£000
Total future minimum operating lease payments on building:		
Payable within 1 year	198	198
Within 2 and 5 years	502	699
More than 5 years	-	-
	<b>700</b>	<b>897</b>
Other:		
Payable within 1 year	-	-
Within 2 and 5 years	-	-
More than 5 years	-	-
	-	-
<b>Total of all operating leases</b>	<b>700</b>	<b>897</b>

## 15. Contingent Liabilities

There are no claims or litigations that would affect the financial statements themselves but there is one Code of Conduct case where leave to appeal has been sought. The outcome is uncertain and the amount of any potential liability is unknown.

## 16. Capital Commitments

There were no capital commitments at 31 March 2022 (2020/21 Nil).

## 17. Related Party Transactions

The PSOW is headed by the Public Services Ombudsman for Wales. The office was established under the Public Services Ombudsman (Wales) Act 2005 and is now governed by the Public Services Ombudsman (Wales) Act 2019. The Ombudsman is independent of Government and the funding arrangements of the Office are set up to ensure that the independence of the Office is secured. The PSOW has had a number of material transactions with the Welsh Parliament, HM Revenue and Customs (Tax and National Insurance) and the Cabinet Office (payments in respect of the Principal Civil Service Pension Scheme). During the year, no directors, key members of staff or their close relatives have undertaken any material transactions.

## 18. Events after the Reporting Period

None.

## 19. Special Payments

One payment totalling £29k was made to a member of staff who left PSOW's employment during the year.

## Pension Disclosures

One pension scheme was operated on behalf of current staff during 2021/22 – The Principal Civil Service Pension Scheme (PCSPS). There also remains an ongoing liability to meet the unfunded pensions of two dependant relatives of former Local Government Commissioners.

### Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: 3 providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 switched into alpha sometime between 1 June 2015 and 1 February 2022. Because the Government plans to remove discrimination identified by the courts in the way that the 2015 pension reforms were introduced for some members, it is expected that, in due course, eligible members with relevant service between 1 April 2015 and 31 March 2022 may be entitled to different pension benefits in relation to that period (and this may affect the Cash Equivalent Transfer Values shown in this report – see below). All members who switched to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a defined contribution (money purchase) pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% for members of classic, premium, classic plus, nuvos and alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is an occupational defined contribution pension arrangement which is part of the Legal & General Mastertrust. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member). The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.)

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk).

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent



spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## **Real Increase in CETV**

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## **Compensation for loss of office**

No staff left under Voluntary Exit or Voluntary Redundancy terms during the financial year.

## Pensions for former Ombudsmen

With the agreement of the Secretary of State for Wales in 1991 and subsequent confirmation by Statutory Instrument 1993 No. 1367, Local Government Commissioners became eligible to join the Local Government Pension Scheme. However, the pensions of the three previous Local Government Commissioners remained the responsibility of the Public Services Ombudsman for Wales and are met through the Statement of Comprehensive Net Expenditure. At 31 March 2022 two surviving spouses of former Commissioners continued to receive a pension.

Pensions are increased annually in line with other pension schemes within the Public Sector. The basis of calculations of the Annual Pensions Increase has been changed from using the annual movement based on the Retail Price Index (RPI) to the Consumer Price Index (CPI). The amount of the uplift applied is normally set out in the Statutory Instrument Pensions Increase (Review) Order. This uplift for 2021/22 was 0.50%.

The total payments during 2021/21 were £45k (£44k in 2020/21). The liabilities arising out of the obligation to finance these pensions together with any dependant pensions has been calculated to be £204k (£209k in 2020/21). The calculation to determine the overall liability has been carried out internally using life expectancy tables for males and females in Wales obtained from the website of the Government Actuary's Department. A discount rate, from PES (2021), of -1.30% (-0.95% in 2020/21) has been applied in accordance with the Treasury guidance that all pension liabilities should be discounted.



**Public Services Ombudsman for Wales**

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# Ombwdsmon Ombudsman

OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU  
PUBLIC SERVICES OMBUDSMAN FOR WALES

## Annual Report and Accounts Executive summary

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2021 / 2022



## About us

We have three main roles.

- We investigate complaints about public services.
- We consider complaints about councillors breaching the Code of Conduct.
- We drive systemic improvement of public services.

We are independent of all government bodies and our service is impartial and free of charge.

## How to find us

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## Highlights of the year

2021/22 was the final year of Nick Bennett's term of office as Ombudsman, a position he held since 2014. The last year was a challenging one for the office, with 32% more cases than the year before. We closed more complaints than ever, providing answers and putting things right for the people of Wales.

We welcomed Michelle Morris as Ombudsman from April 2022. Michelle is developing her Strategic Plan setting out how we will work to continue to deliver a fair and independent complaints service, for those dissatisfied with public services, and use the learning from complaints to make improvements.



## We have continued to deliver for those who have suffered injustice during the pandemic.

We received this year a record number of new cases - 32% more than last year and 14% more than in 2019/20.



We delivered justice to more people in Wales by closing a record 2865 complaints about public services and the Code of Conduct - 29% more than last year and 14% more than in 2019/20.

### Complaints about public services

We saw more new complaints about:

People complained to us mainly about:

#### Health Boards

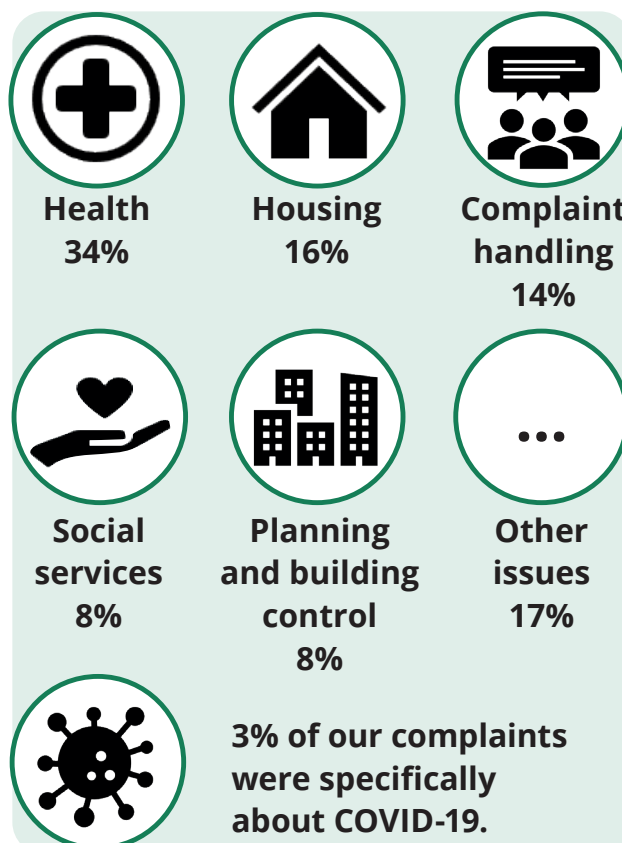
30% more than last year  
2% more than in 2019/20

#### County and County Borough Councils

47% more than last year  
32% more than in 2019/20

#### Housing Associations

78% more than last year  
50% more than in 2019/20



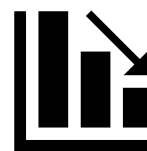
## Our interventions

459

18%

We found that something had gone wrong and had to intervene in 459 or about 18% of complaints about public services that we closed this year.

That was a lower proportion than in the last two years (20%).



69%

in 69%, we proposed Early Resolution to deliver justice quickly.

“The service was excellent, and the outcome achieved was positive. I could not have achieved this outcome without assistance from the ombudsman’s office. They helped me to achieve a sense of fairness.”

31%

in 31%, we intervened after investigating.

## Our recommendations

1,131

We issued 1131 recommendations to public service providers.

“We take comfort in the thought that all involved have learned some meaningful lessons and hopefully, as a result of your investigation, no other family may experience the situation we found ourselves in.”



£132k

We recommended over £132,000 of financial redress – compared to £62,000 last year and £80,000 in 2019/20.

26%

26% of our recommendations this year were about process change, more training or more information for staff.

Find all the complaints data that we refer to in this Report [on our website here.](#)



## Complaints about the Code of Conduct

Compared to last year, we received fewer complaints about the Code of Conduct. However, last year the volume of those complaints was unusually high. Compared to 2019/20, we received many more new Code of Conduct complaints.



We again saw more complaints about members of Town and Community Councils (2% more than last year and 27% more than in 2019/20).



About a half of our new complaints about the Code of Conduct (51%) was about the promotion of equality and respect - a slightly lower proportion than last year (55%).

Although we closed slightly fewer Code of Conduct complaints than last year, we investigated a much higher proportion - 14%, compared to 8% last year.

In cases where we investigate and have evidence to suggest there may have been a serious breach of the Code of Conduct, we refer the complaint and our findings to a local standards committee or to the Adjudication Panel for Wales.

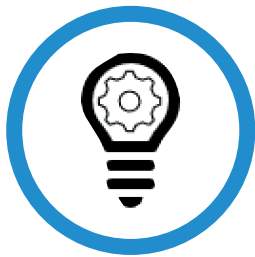


These bodies upheld and found breaches in all our referrals they considered in 2021/22. This gives us additional assurance that our process for considering these complaints is sound.

**20**

In 2021/22, we referred 20 complaints about the Code of Conduct to the Standards Committees of the relevant local authorities, or the Adjudication Panel for Wales. This was twice as many as last year. We are concerned about this increase.

“ I recognise the understanding and professionalism shown in your contribution to the hearing and deliberation on its outcome. Please accept my gratitude for your management of the case.



## We are proactive, helping the public sector improve during challenging times.

Despite the significant increase in our workload this year, we continued to promote learning from our complaints and improve broader public services.



We issued our Model Complaints Handling Policy and accompanying guidance to an initial 8 Housing Associations – bringing the total of bodies under Complaints Standards to 39.



We provided 140 virtual training sessions to public bodies across Wales



We launched the findings of our first wider Own Initiative Investigation –

**'Homelessness Reviewed: An open door to positive change'.**



We published on our website statistics about complaints made to County and County Borough Councils for the first time.



We completed 3 extended investigations (where we were already investigating a problem and extended the investigation to other issues or complainants).



We issued 7 public interest reports.



We published our third Equality and Human Rights Casebook.



We issued updated guidance – **'Principles of Good Administration'** and **'Good Records Management Matters'.**



We launched the **'Our Findings'** tool on our website, which replaces our traditional casebooks.



## We embrace learning and welcome feedback.

We do our best to make sure that we handle complaints fairly and in a transparent way. People who are unhappy with our decisions can ask for a review if they can show we did not properly consider the information they sent us, or if they can send us additional, new evidence.

**260**

We handled 260 review requests.

**20%** more than last year

**12%** more than in 2019/20

**7%**

We upheld only 7% of the review requests we closed – a lower proportion than last year (9%). Although there is always more work for us to do to improve, this gives us confidence in our decisions.

We want to deliver an excellent service. To check how well we do that, we invite feedback from people who complain to us and from the bodies in our jurisdiction. We use that feedback to improve how we work.

**26**

This year, 26 public bodies attended our Sounding Boards. They gave us good feedback but were broadly satisfied with our service.

Our workload pressures had an effect, with fewer service users happy with our service this year. We are working on a detailed action plan to improve how we work based on this feedback.

**43%**

43% of our complainants that we asked were happy with our customer service – compared to 51% in 2020/21. However, people were much happier with our service when they were also happy with the outcome of their complaint.

We received

**32**

complaints about us.

We upheld or partially upheld 41% - compared to 22% last year.



## We are accountable and transparent about our performance and use of resources.

We are accountable to the Senedd for how we work and how we use our resources.

£

Our budget this year was £5.2m.

£491

Our unit cost per case this year was £491.

77%

We applied 77% of our resources to complaints handling.

91%

91% of our budgeted funding for new powers (£332k) was spent on implementation.

We understand that we need to play our part in protecting the environment and continue to develop sustainable working practices.



We produced just over 9000kg of waste - 255% more than last year, but 66% less than in 2019/20.



We used 2% more energy than last year, but 29% less than in 2019/20.



We sent 0% of our general waste to landfill.



We avoided 176 kg of CO2 in emissions



We maintained close links with colleagues in the UK, Europe and around the world.



## We strive to ensure and promote equality, diversity and inclusion.

We work to make sure that people are aware of and trust our service - and that we are accessible to all who need us. We had some successes this year, but have more work to do.

**43%**

43% of people who responded to a national survey knew about us (compared to 48% in 2020).

**80%**

80% of our complainants that we asked said that it was easy to contact us (compared to 85% last year).

**221**

We took 221 oral complaints (compared to 63 last year) and our first complaint in British Sign Language.

“Immensely helpful. I have dyslexia and wouldn't have been able to submit a complaint otherwise.

We are committed to creating an equal, diverse, and inclusive workplace.



86% of those who responded agreed that we are committed to creating a diverse, equal and inclusive workplace.



We again achieved the Chwarae Teg FairPlay Employer award at silver level, and reduced our median Gender Pay Gap to 3%, from 5% last year.



We achieved Autism Awareness Employer Status.



## We pull together and support each other.

We value and support our staff. The challenges that we faced during the year affected their health and wellbeing. We worked hard to support them during the year and will carry on this work in 2022/23, as we expect our workload to remain high.

**100%**

All our staff completed their annual appraisal process.

**72%**

72% of our staff completed 28 hours or more of continuing professional development.

**2.7%**

The average percentage of working days lost through staff sickness increased from 1.1% to 2.7%. This was largely because of long-term absences due to stress, mostly not work-related.

Of people who responded to our staff survey this year,

**87%**

said that PSOW was a good place to work, down from 96% in 2020.

**61%**

said that they had sufficient resources to do their work, down from 90% in 2020.

**93%**

said that their working arrangements were sufficiently flexible to allow them to balance their work and home life priorities, up from 87% in 2020.

**58%**

felt that workload pressure was reasonable, down from 76% in 2020.

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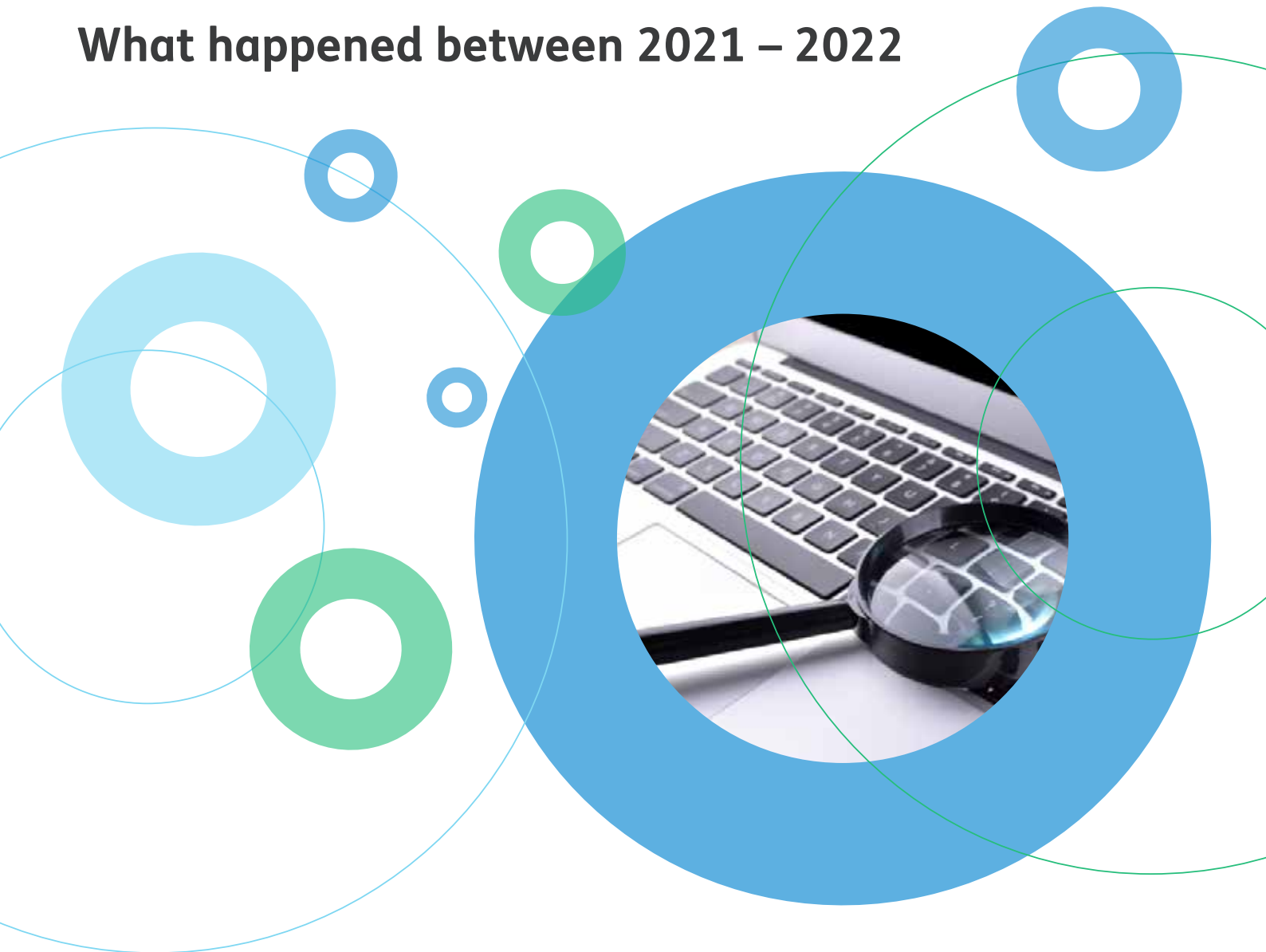
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PUBLIC SERVICES OMBUDSMAN FOR WALES

# Public Services Ombudsman for Wales Annual Report

## What happened between 2021 – 2022



This document was written by the **Public Services Ombudsman for Wales**. It is an easy read version of ‘**Annual Report and Accounts 2021 - 2022**’

**July 2022**

# How to use this document



This is an easy read document. But you may still need support to read it. Ask someone you know to help you.



Words in **bold blue writing** may be hard to understand. You can check what the words in blue mean on **page 28**.



Where the document says **we**, this means **Public Services Ombudsman for Wales**. For more information contact:

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# Introduction



We are the Public Services Ombudsman for Wales.

We deal with complaints about:



- **Public services**

**Public services** are services paid for by Government. For example: local councils, the NHS, social landlords.



- Local councillors breaking the **code of conduct**. Local councillors are people chosen to run a council.



**Code of conduct** means the rules and standards someone must follow in their job.



Our aim is to improve **public services**.



We make our own decisions to look into complaints. And we are not owned by any government organisation.



Our service is for all and free of charge.

# What happened between 2021-2022



Nick Bennett finished his term as an **Ombudsman** this year.



**Ombudsman** is the person leading our office. In our office, we have many people who look into complaints.



We welcomed Michelle Morris as an **Ombudsman** from April 2022.



Michelle is writing a plan about how we will work to provide a fair complaints service for people who are not happy with **public services**. Or about how local councillors behave.



We had many complaints in 2021 to 2022. It was much more than we had in 2020 to 2021 and 2019 to 2020.



We closed many complaints by making things right for the people of Wales.



We continued our work during COVID-19.

We had more than 8 thousand new cases:



- Almost 5 thousand cases were enquiries.
- 169 were **Code of Conduct** pre-assessments. This means cases which we could not look into because we did not get all the information we needed.
- 2,726 complaints were about **public services**.
- 294 complaints were about the **Code of Conduct**.
- We closed 2,865 complaints in total.

## Complaints about public services



We had complaints about:

- Health boards
- County and County Borough Council
- and Housing Associations



The complaints were about health services, housing, complaint handling, social services, planning and building control.



3 out of 100 complaints were about COVID-19.



We issued more than 1 thousand **recommendations** to public service providers.



**Recommendation** means saying what actions need to be taken to solve a problem.





We **recommended** that the providers pay over 132 thousand pounds of **financial compensation**. This was over twice as much as in 2020 to 2021.



**Financial compensation** is when you are paid money by a person or organisation. They pay you this money to cover the harm, loss or stress they have caused you.



26 out of 100 **recommendations** were about making changes in the way people work. Or about training. Or more information for staff.

## Complaints about the Code of Conduct



We had fewer complaints about the **Code of Conduct** than last year. But more than we had in 2019 to 2020.



Most of our new complaints were about members of Town and Community Councils.



Almost half of our new complaints about the **Code of Conduct** was about councillors not treating others **equally** and with respect.

## Equality



**Equally** means treating people fairly and making sure they have the same chances in life.



We closed fewer **Code of Conduct** complaints than last year, but many more than the year before that. We looked into many more complaints.

If the complaints were very serious, we referred them to:



- a **local Standards Committees**
- or to the **Adjudication Panel for Wales.**



We referred 20 complaints about the **Code of Conduct** to the **local Standards Committees**. Or the **Adjudication Panel for Wales**.



This is twice as many as last year. We are worried about this increase.



When the **Adjudication Panel for Wales** and **Standards Committees** look at the complaints we refer, they generally agree with our findings.

# Supporting public services to improve



We had a lot more complaints this year. Our work was much more than last year.



But we continue to help **public services** to improve by learning from the complaints we get.



We have 39 **public bodies** in Wales under the **Complaints Standards Authority**.



The aim of the **Complaints Standards Authority** is to work with **public bodies** to help them deal with complaints in the right way.

We do this by:

- providing guidance and training
- and by collecting information about how they deal with complaints.





**Public bodies** are organisations that run services for the public. They have money from Welsh Government to run.



We provided 140 online training sessions to **public bodies** across Wales.



For the first time we put information about how many complaints were made to the County and County Borough Councils on our website.



We can look into problems with **public services** even if we have not had a complaint about them.



This year, we published a report about how County and County Borough Councils deal with homelessness assessments in Wales.



You can read about it here: [Homelessness Reviewed: An open door to positive change.](#)



When we look into a complaint, we can look into extra things linked to it, if we think there may be a problem.



We completed 3 big investigations like that during the year.



If we think that our complaint is very serious or can help all **public bodies** to improve how they work, we issue a **public interest report** about it.

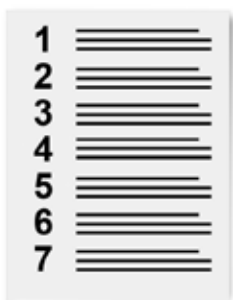
We wrote 7 reports like that this year:



- 5 about health care
- 1 about social care
- and 1 about waste management.



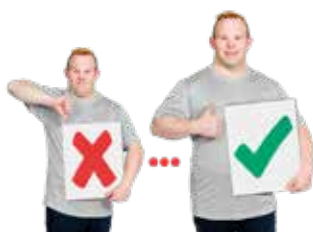
We have added the [Our Findings](#) tool on our website. This tool helps people to search through complaints that we closed.



We published our third [Equality and Human Rights Casebook](#). This has a list of our complaints about human rights and **equality**.



We have updated our guidance about Principles of [Good Administration](#) and [Good Records Management Matters](#).



This guidance is to help **public bodies** work better.

# What we learnt

## Equality



We want to make sure we are doing a good job. And we handle complaints in an **equal** and fair way.



If you are not happy with our decisions, you can ask for a **review**.



A **review** is when we check a plan or how something is working to make sure we are working in the best way.



You can ask for a **review** if you can show that we did not properly think about the information you sent. Or if you can send us new information.



We had 260 new **review** requests from people this year.



## About feedback from people



We asked for feedback from people who made a complaint and from the **public bodies**. We use that feedback to improve how we work.



This year, 26 **public bodies** took part in our **Sounding Boards**. This is a group where you can share your ideas and feedback.



**Public bodies** gave us good feedback and were happy with our service.



But not as many people were happy with our service this year.



43 out of 100 people who made a complaint were happy with our service.



But people said they were happier with our service when they had a good result from their complaint.



We got 32 complaints about us.



We agreed with around 4 out of every 10 complaints about us.



We are working on an action plan to improve how we work based on this feedback.

# How we work and how we use our resources



We are responsible to the **Senedd** for how we work and how we use our **resources**.



The **Senedd** is the Welsh Parliament. It is where laws are made in Wales.



**Resources** are useful things we have or things we own. For example, buildings, vehicles, information, money and staff.



We had a budget of £5.2 million this year.



We used most of our **resources** to handle complaints. The rest of the **resources** were used on things such as training and other things.



We spent around £491 on every case this year.



We want to protect the environment and continue to support **sustainable** working.



**Sustainable** means that the services are run carefully so they can run in the future.



We had just over 9,000 kg of waste.



We used 2 % more energy than last year.



We did not send any general waste to landfill.



We tried to use **resources** that use the lowest amounts of energy.



We stayed connected with colleagues in the UK, Europe and around the world.

# About equality, diversity and inclusion



We want to make sure we have **equality**, **diversity** and **inclusion** in our organisation.



**Diversity** means people are not all the same. For example, people come from different backgrounds, make different choices or are good at different things.



**Inclusion** means everyone can take part, and everyone has a fair chance.



We want people to know that everyone can use our service.



43 out of 100 people who took part in a national survey said that they knew about us.



80 out of 100 people who made a complaint said that it was easy to contact us.



We took 221 complaints in person or on the phone. And we had the first complaint in British Sign Language.

Equality



We want to make our workplace **equal, diverse,** and **inclusive.**



Most of our staff agreed that our workplace is **equal, diverse** and **inclusive.**



We got the **Autism Awareness Employer Status** this year. This means we have a good understanding about Autism.



We also got the **Chwarae Teg FairPlay Employer** award at silver level. This means we are recognised as being a fair employer.



And we reduced our **Gender Pay Gap** to 3% from 5% last year.



**Gender Pay Gap** is when men and women earn different amounts of money overall at an organisation. For example, maybe there are less women in manager jobs than men.



# How we support our staff



We value and support our staff.



The challenges that we faced during 2021 to 2022 affected how well and healthy our staff were.



We worked hard to support our staff during the year.



All our staff completed their yearly **appraisal process**.



This is when we talk about how staff have worked during the year and what they need to do in the future.

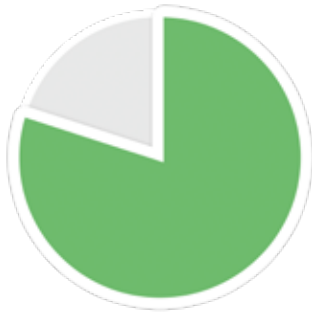


Around 7 out of 10 of staff completed 28 hours or more of professional development. This means things like training.



More staff took sick leave because of stress compared to last year. A lot of the times, this had nothing to do with work.

### Results from the staff survey this year:



87 out of 100 staff said that **Public Services Ombudsman** for Wales is a good place to work.



Almost all said that their work was flexible. This means that it allowed them to balance their work and home life.



More than half said that they had enough **resources** to do their work.



More than half said that the workload was okay.

# Hard words

## Code of conduct

Code of conduct means the rules and standards someone must follow in their job.

## Diversity

Diversity means people are not all the same. For example, people come from different backgrounds, make different choices or are good at different things.

## Equality

Equality means treating people fairly and making sure they have the same chances in life.

## Financial compensation

Financial compensation is when you are paid money by a person or organisation. They pay you this money to cover the harm, loss or stress they have caused you.

## Gender Pay Gap

This is when men and women earn different amounts of money overall at an organisation.

For example, maybe there are less women in manager jobs than men.

## Inclusion

Inclusion means everyone can take part, and everyone has a fair chance.

## Ombudsmen

Ombudsman is the person leading our office. In our office, we have many people who look into complaints.

## **Public services**

Public services are services paid for by Government. For example: local councils, the NHS, social landlords.

## **Public bodies**

Public bodies are organisations that run services for the public. They have money from Welsh Government to run.

## **Resources**

Resources are useful things we have or things we own. For example buildings, vehicles, information, money and staff.

## **Recommendation**

Recommendation means giving suggestions like what actions need to be taken to solve a problem.

## **Review**

A review is when we check a plan or how something is working to make sure we are working in the best way.

## **Sustainable**

Sustainable means that the services are run carefully so they can run in the future.

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**THIS REPORT IS NOT EXEMPT AND IN THE PUBLIC DOMAIN****SOUTH WALES FIRE & RESCUE AUTHORITY**AGENDA ITEM NO 13  
30 JANUARY 2023

STANDARDS COMMITTEE

REPORT OF DIRECTOR OF CORPORATE SERVICES

**PUBLIC SERVICE OMBUDSMAN FOR WALES – UPDATED GUIDANCE ON THE CODE OF CONDUCT****THIS REPORT IS FOR INFORMATION**

REPORT APPROVED BY DIRECTOR OF CORPORATE SERVICES

REPORT PRESENTED BY HEAD OF CORPORATE SUPPORT – SARAH WATKINS

**SUMMARY**

This report informs the Standards Committee of the Public Service Ombudsman for Wales revised guidance setting out Members' obligations under the Code of Conduct.

**RECOMMENDATIONS**

That Members note the content of the report.

**1. BACKGROUND**

- 1.1 The Public Service Ombudsman for Wales (the Ombudsman) released guidance documents on the Code of Conduct in October 2022. There are two elements to the role of the Ombudsman which are to consider complaints about public service providers in Wales and to consider complaints that members of local authorities have breached their Authority's Members' Code of Conduct.
- 1.2 The statutory guidance set out at Appendix 1 is issued by the Ombudsman under Section 68 of the Local Government Act 2000 for elected, co-opted and appointed Members of:
  - 1.3
    - county and county borough councils
    - fire and rescue authorities
    - national park authorities
    - police and crime panels in Wales
  - 1.4 The purpose of the guidance is to provide Members with a general understanding of the Code and its requirements. The guidance introduces the Code and its enforcement. It outlines Members' obligations under the

Code, referencing specific paragraphs for further information and deals with general issues surrounding the disclosure and registration of interests under Parts 3 and 4 of the Code respectively.

## 2. ISSUE

- 2.1 The revised guidance outlines Members' duties under the Code and explains the test applied by the Ombudsman when deciding whether to investigate an alleged breach of the Code. It also includes examples drawn from cases considered by the Ombudsman, local Standards Committees and the Adjudication Panel for Wales, and reflects on issues of concern and recent trends.

## 3. IMPLICATIONS

### 3.1 Community and Environment

Equality, Diversity and Inclusion	No
Welsh Language	No
Well-Being Of Future Generations (Wales) Act	No
Socio Economic Duty	No
Sustainability / Environment / Carbon Reduction	No
Safeguarding	No
Consultation and Communications	No
Consultation with Representative Bodies	No
Impact Assessment	No

### 3.2 Regulatory, Strategy and Policy

Legal	No
Financial	No
Procurement	No
Corporate Risk	No
Information Management	No
Data Protection / Privacy	No
Health, Safety and Wellbeing	No
Governance & Audit	Yes
Service Policy	No
National Policy	No

- 3.2.1 Fire & Rescue Authorities are required to adopt a Code of Conduct encompassing the provisions of the model code. The Code of Conduct for South Wales Fire & Rescue Authority is contained within the Authority's Constitution. The constitutional documents for the Authority can be found on this [link](#). The Principles of Member Conduct and the Members' Code of Conduct are contained in



Appendix 1 of the Authority's General Standing Orders [link](#) (page 21 of the document).

### 3.3 Resources, Assets and Delivery

Human Resources and People Development	No
Assets and Resources (Property/Fleet/ICT/Equipment)	No
Service Delivery	No
Procurement	No
Budget Revenue/Capital	No

## 4. RECOMMENDATION

4.1 That Members note the content of the report.

<b>Contact Officer:</b>	T/ACO Geraint Thomas T/Director of Corporate Services
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<b>Background Papers</b>	<b>Date</b>	<b>Source/Contact</b>
The Code of Conduct for Members of Local Authorities in Wales  Guidance from the Public Services Ombudsman for Wales for members of county borough councils, fire and rescue authorities, national park authorities and police and crime panels	October 2022	<a href="https://www.ombudsmann.wales/wp-content/uploads/2022/11/Code-of-Conduct-Guidance-CC-CBC-NPA-PCP-31-10-2022.pdf">https://www.ombudsmann.wales/wp-content/uploads/2022/11/Code-of-Conduct-Guidance-CC-CBC-NPA-PCP-31-10-2022.pdf</a>
Constitutional documents for South Wales Fire & Rescue Authority		<a href="https://www.southwales-fire.gov.uk/publications/constitutional-documents/">https://www.southwales-fire.gov.uk/publications/constitutional-documents/</a>
General Standing Orders	27 June 2016	<a href="https://www.southwales-fire.gov.uk/app/uploads/2020/07/General-Standing-Orders-from-27.06.16.pdf">https://www.southwales-fire.gov.uk/app/uploads/2020/07/General-Standing-Orders-from-27.06.16.pdf</a>

<b>Appendices</b>	
Appendix 1	The Code of Conduct for Members of Local Authorities in Wales Guidance from the Public Services Ombudsman for Wales for members of county borough councils, fire and rescue authorities, national park authorities and police and crime panels

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# The Code of Conduct

## for members of local authorities in Wales

**Guidance from the  
Public Services Ombudsman for Wales**  
for members of county borough councils,  
fire and rescue authorities,  
national park authorities and  
police and crime panels

## Preface

Since taking up my role as Public Services Ombudsman for Wales on 1 April 2022, my office has continued to promote high standards in public life in order to maintain trust and confidence in those holding public office in local government in Wales.

Whenever possible it is preferable for any concerns about a member's conduct to be resolved locally and at an early stage. This has the potential to calm situations down and prevent the need for further escalation and formal investigation by my office. It is my aim therefore that as political leaders and standards committees across Wales take forward their new duties to promote high standards of conduct under the Local Government & Elections (Wales) Act 2021, that my office supports them in their work and that as members, you all fully understand the requirements placed upon you when you take up your role.

This guide from me as Public Services Ombudsman for Wales provides an overview of the Model Code of Conduct ("the Code") introduced in 2008 (as amended on 1 April 2016). It is intended to help you as a member to understand your obligations under the Code. The Code applies to all members and co-opted members (with voting rights) of county and county borough councils, community councils,<sup>1</sup> fire and rescue authorities, national park authorities and police and crime panels in Wales. I have issued separate guidance for members of community and town councils.

As an elected member, you are required to sign up to the Code as part of your declaration of acceptance of office. As a co-opted member, you must give a written undertaking to observe the Code when you take up office. The Code does not apply to the actions of authorities as a whole, or to the conduct of their officers and employees. There is a separate Code of Conduct applying to local government employees in Wales.

It is important to recognise that the Code's primary purpose is not to restrict the way in which you act as a member, rather it is intended to help and guide you in maintaining appropriate standards of conduct when serving your community. In turn, it provides reassurance to the public and helps build their trust in, and respect for, their local representatives.

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<sup>1</sup> In legislation, 'community council' includes a 'town council'.

The guidance aims to provide you with a general understanding of the Code and its requirements. Section 1 provides an introduction to the Code and its enforcement, including the powers of sanction available to standards committees and the Adjudication Panel for Wales. Section 2 outlines your obligations under the Code, referencing specific paragraphs for further information. Sections 3 and 4 deal with general issues surrounding the disclosure and registration of interests under Parts 3 and 4 of the Code respectively. You can obtain a copy of the Code adopted by your authority by downloading it from your authority's website, or by contacting your Monitoring Officer or Democratic Services Department.

The guide is intended to help you to understand the Code and how it applies, but it cannot hope to cover every conceivable circumstance. Ultimately, it is your responsibility to take specific advice from your Monitoring Officer and to make a decision as to the most suitable course of action.

The guidance explains the two-stage test that I will consider when deciding whether to investigate or to continue with an investigation of a breach of the Code, to the stage of referring the matter to a standards committee or the Adjudication Panel for Wales. It also includes guidance on the use of social media and political expression, and aims to provide assistance to members on the issue of interests, which some members find challenging. As before, it excludes guidance which only relates to community and town councillors, as this is included in the separate guidance I have issued for such councillors.

The guidance includes examples drawn from actual cases considered by my office and decisions reached by local standards committees and the Adjudication Panel for Wales, which help bring the guidance to life. Some of the decisions in these cases may have been taken by my predecessor but, for ease of reference, I will refer to them as my own decisions. Further examples of recent cases can be seen in "Our Findings" section of my website ([www.ombudsman.wales](http://www.ombudsman.wales)).

I am concerned that the promotion of equality and respect and the disclosure and registration of interests continue to dominate the complaints received by my office.

I have seen year-on-year increases in the number of complaints where bullying by members is being alleged, particularly from community council clerks, other officers and contractors of local authorities or community and town councils. This suggests members generally could benefit from training or refresher training on these aspects of the Code in particular and offering our support to standards committees when they are drawing up their training plans for members.

As a member, you will be offered training on the Code, from a Monitoring Officer, your Standards Committee or a representative body. I expect all members to take advantage of such training, including refresher courses, to ensure that they are fully aware of the provisions of the Code and the standards expected of them in public life. Members of the public would expect nothing less of their elected representatives performing such a vital role for their constituents. I would also urge members to avail themselves of any local arrangements for dealing with 'member versus member' complaints, which have proved very effective as a means of resolving many of these cases.

I continue to be concerned about the number of low-level complaints that are being received. I welcome the fact that the number of these low-level complaints has reduced; however, the number I receive is still too high. Whilst these complaints appear to have been generated by a small number of members, in these challenging times of greater demand for public services, it is increasingly important to ensure the effective use of my office's resources and that any investigation undertaken is proportionate and required in the wider public interest.

We should continue to work collaboratively to drive up standards in public life and to create a culture where members are respected for their selflessness, objectivity and respectful behaviour. If we do so, we can build public confidence in our democratic institutions and promote good governance for the benefit of the people in all of our communities.

A handwritten signature in black ink that reads "M.M. Morris." The signature is written in a cursive, slightly slanted style.

Michelle Morris  
Public Services Ombudsman for Wales  
October 2022

This statutory guidance is issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000 for elected, co-opted and appointed members of:

- county and county borough councils
- fire and rescue authorities
- national park authorities
- police and crime panels in Wales

## Acknowledgement

I would like to thank the legal services department of Ceredigion County Council for the use of its flowchart on interests which are appended to this guidance.

Separate guidance is available for members of community and town councils.

First published April 2010. This edition published October 2022.

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## 1 Introduction

- 1.1 The Local Government Act 2000 created a new ethical framework for local government in Wales. It created a power for the National Assembly for Wales (now known as the Welsh Parliament or Senedd Cymru) to issue a model Code of Conduct to apply to members and co-opted members (with voting rights) of all relevant authorities in Wales. This power was transferred to the Welsh Ministers by the Government of Wales Act 2006. On 1 April 2016, Welsh Ministers issued a number of revisions to the current Model Code of Conduct (issued in 2008)<sup>2</sup> which all relevant authorities were required to adopt.<sup>3</sup>
- 1.2 For this purpose, a relevant authority is defined as a county or county borough council, a community council, a fire and rescue authority or a national park authority in Wales. The ethical framework and the model Code of Conduct also apply to members of a police and crime panel in Wales by virtue of regulations made by the UK Government under the Police Reform and Social Responsibility Act 2011.<sup>4</sup>
- 1.3 Authorities were required to adopt the Code in its model form in its entirety, but could make additions to the Code, provided these were consistent with the Model. This is intended to give certainty to members and the public as to what standards are expected. It helps to ensure consistency throughout relevant authorities, avoiding confusion for members on more than one authority and for the public.
- 1.4 Standards committees of principal councils<sup>5</sup> are required to assist members and co-opted members of their authorities, together with members of community and town councils in their area, to observe the Code and to arrange for advice and training to be provided. **I expect all members to attend training and take advice where it is offered.** I also support individual authorities which require members to attend training on the Code before they can join certain decision-making bodies, such as planning committees. Sanctions guidance issued by the President of the

<sup>2</sup> Local Authorities (Model Code of Conduct) (Wales) Order 2008, SI 2008 No. 788 (W.82)

<sup>3</sup> Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016, SI 2016 No. 84 (W.38)

<sup>4</sup> Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012, SI 2012 No. 2734

<sup>5</sup> A county or county borough council in Wales

## The Code of Conduct – for members of local authorities in Wales

Adjudication Panel for Wales indicates that a refusal, or failure, to attend available training on the Code will be regarded by its tribunals as an aggravating factor when assessing the sanction to be applied to a member found to have breached the Code.

- 1.5 As a member, when you sign your declaration of acceptance of office, you are confirming that you will observe the Code. It is your personal responsibility to ensure that you understand your obligations under the Code and act in a way which shows that you are committed to meeting the high standards of conduct that are expected of you as a member. Ultimately you are responsible for the decisions you take and can be held to account for them. However, this does not imply that you can take decisions which breach the Code or are contrary to relevant advice from officers simply because the decision is yours to take. This guidance explains the constraints you are expected to act within to ensure members of the public can be confident in the way in which authorities in Wales reach their decisions.

### Investigations: Assessing the Public Interest

- 1.6 It is my role as Public Services Ombudsman for Wales to consider and, when appropriate, undertake independent investigations of serious complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code, I use a two-stage test..
- 1.7 At the first stage, I will aim to establish whether there is direct evidence that a breach actually took place. The level of proof that is required is on the balance of probabilities. If that evidential test is met, at the second stage, I will consider whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. Some of the public interest factors that I will consider are set out below. These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case.

**1.8 Public interest factors include:**

- the seriousness of the breach
- whether the member deliberately sought personal gain for themselves or another person at the public expense
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
- whether there is evidence of previous similar behaviour, or the member has previously been found to have breached the Code by a standards committee or the Adjudication Panel for Wales
- whether there is evidence of a course of conduct, the conduct is ongoing, or the misconduct is escalating
- whether the investigation or referral to a standards committee or the Adjudication Panel for Wales is required to maintain public confidence in elected members in Wales
- whether investigation or referral to a standards committee or the Adjudication Panel for Wales is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the member (I will take account of the outcomes of previous cases considered by standards committee across Wales and the Adjudication Panel for Wales), and whether the use of resources in carrying out an investigation or hearing by a standards committee or the Adjudication Panel for Wales would be regarded as excessive when weighed against any likely sanction.

**1.9** I have a wide discretion as to whether to begin or continue an investigation. I have revised the two-stage test adopted by my predecessor in order to provide greater clarity on how I will usually exercise my discretion and to secure a degree of consistency and certainty in the decisions that I reach.

### Legal Precedents

- 1.10 When applying the two-stage test, in addition to taking account of previous decisions of the Adjudication Panel for Wales and standards committees, I must be mindful of relevant legal precedents set by the Courts. Since the Code was introduced in 2001, there have been two significant appeals heard by the High Court that have set important benchmarks in relation to cases in Wales.<sup>6</sup>
- 1.11 In the first case, the Adjudication Panel dismissed an appeal by a Community Councillor against the decision of the local standards committee that he had failed to show respect and consideration for others by posting various online comments criticising the other members and the way in which the Council was run. The High Court found that, whilst the comments were sarcastic and mocking and the tone ridiculed his fellow members, because the majority of the comments related to the way in which the Council was run, how its decisions were recorded and the competence of the members, the comments were “political expression”. The ruling said no account had been taken of the need for politicians to have “thicker skins”. In view of the member’s freedom of expression and the fact that the majority of comments were directed at fellow councillors, the finding of a breach in this case was a disproportionate interference with the member’s rights under Article 10 of the European Convention on Human Rights (ECHR). The Adjudication Panel’s decision was, therefore, set aside.
- 1.12 In the second case, the High Court heard an appeal against the decision of the Adjudication Panel that a member of a County Council had committed 14 breaches of the Code by failing to show respect and consideration for officers of the Council, using bullying behaviour, attempting to compromise the impartiality of officers and bringing the member’s office into disrepute. The breaches occurred over a period of two years and included comments and conduct which were critical of, and threatening towards, both senior and junior officers. The Court found that all of the breaches were intentional and some of the misconduct was serious. Some of the breaches involved deliberately dishonest and misleading conduct towards

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<sup>6</sup> Calver, R (on the application of) v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin); Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin).

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officers, other members and members of the public. In respect of officers, much of the conduct was intended to undermine them personally and was performed when officers were trying to do their jobs, which the member was intent on frustrating. All but three of the breaches found by the Adjudication Panel were upheld by the Court.

- 1.13 One of the important issues that had to be determined by the Court was the scope of, and legitimate restrictions to, a politician's right of freedom of expression under Article 10 of the ECHR and at common law. The Court reiterated that the law requires politicians to have thick skin and be tolerant of criticism and other adverse comment. However, the Court also noted that while public servants are open to criticism, including public criticism, it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine confidence in the administration.
- 1.14 I have included guidance consequent on these judgments, particularly conduct towards junior officers, in the sections dealing with the relevant paragraphs of the Code.
- 1.15 Further guidance on the process I use for investigating complaints, including a factsheet on 'Assessing Public Interest' and the 'Code of Conduct Casebook', which summarises cases I have investigated, is available on my website at [www.ombudsman.wales](http://www.ombudsman.wales)

### Local Resolution Process

- 1.16 Local authorities across Wales have implemented local resolution procedures to deal with low-level complaints which are made by a member against a fellow member. In some cases, the arrangements also cover complaints made about members by officers. These arrangements are proving to be an effective and proportionate means of resolving many of these kinds of complaints. Typically, these complaints continue to be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code, or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to me

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about a fellow member if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), I am very likely to refer the matter back to the authority's Monitoring Officer for consideration under this process, in the first instance.

- 1.17 In my view, such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints.
- 1.18 The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may, for example, result in an apology being made by the member concerned, or a recommendation that the member undertakes specific training. However, where a member has repeatedly breached their authority's local protocol, I would expect the Monitoring Officer to refer the matter back to me. If I see a pattern of similar complaints being made to me by the same members, I will consider this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code.
- 1.19 When I have investigated a complaint, I may refer the matter to a standards committee or the Adjudication Panel for Wales for determination. This will depend on the nature and individual circumstances of the alleged breach. When issuing my report, I will reflect on and analyse the evidence gathered and draw my conclusions as to whether it is suggestive that a breach of the Code has occurred. However, the authority to make a determination of breach rests solely with the relevant standards committee or the Adjudication Panel for Wales.
- 1.20 Local resolution can also play an important role within community councils where, all too often, low-level disputes between members have escalated to the point where the whole council has been brought into disrepute in the eyes of the public. I am pleased, therefore, that One Voice Wales has produced a 'Model Local Resolution Protocol for Community and Town Councils', to support councils in resolving minor disputes in a way which is proportionate to the scale and resources of the sector. I strongly

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encourage all community and town councils to adopt the protocol. The Model Protocol is available from One Voice Wales or my website.

1.21 An overview of the complaints process is at Appendix 1 to this guidance.

### Standards Committee

1.22 The Standards Committee established by your authority is responsible for promoting and maintaining high standards of conduct by the authority's members. It provides advice and training for members and monitors the operation of the Code. The Committee also considers reports referred by me, or your authority's Monitoring Officer, following the investigation of alleged breaches of the Code. The Standards Committee also discharges these functions in relation to community and town councils in its area.

1.23 Standards committees are made up of independent lay members and elected members of the authority. The membership of a standards committee which discharges functions in relation to community and town councils must also include at least one community councillor.

1.24 When I refer a case to a standards committee, its role is to decide whether a member has breached the Code and, if so, whether a sanction should be imposed. Adjudication Panel for Wales hearings take place in public, except where a tribunal considers that publicity would prejudice the interests of justice. In my view, standards committee hearings should also be conducted in public, unless there are valid reasons for not doing so, to promote public confidence in standards in public life. Where a standards committee concludes that a member or co-opted member has failed to comply with the relevant authority's code of conduct, it may determine that:

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured, which takes the form of a public rebuke
- the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding 6 months or, if shorter, the remainder of the member's term of office.



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- 1.25 A member may seek the permission of the President of the Adjudication Panel for Wales to appeal against the determination of a standards committee.
- 1.26 The Local Government and Elections (Wales) Act 2021 (the 2021 Act), which received Royal Assent on 20 January 2021, places new duties on the standards committee of a county and county borough council in Wales which come into force from 5 May 2022. The committee will have the additional function of monitoring and providing support to political group leaders in principal councils in undertaking their new duty, under the 2021 Act, to promote high standards of conduct by members of their group. Each standards committee will also be required to make an annual report to their authority describing how the committee's functions have been discharged and providing an overview of conduct matters generally within the authority. The 'Explanatory Notes' to the 2021 Act indicate that the requirement on a principal council's standards committee to make a report includes a requirement to make a report to any community and town councils in its area.

### Political Group Leaders

- 1.27 As mentioned above, the 2021 Act also introduces a new duty on political group leaders in a county or county borough council to take reasonable steps to promote and maintain high standards of conduct by members of their group. In doing so, a group leader must co-operate with the standards committee when exercising its functions. In turn, a standards committee must ensure group leaders have access to advice and training to support them in undertaking their new duties and to monitor group leaders' compliance with those duties. A group leader who fails to comply with the new duty in a meaningful way may potentially be regarded as bringing their office into disrepute, in breach of paragraph 6(1)(a) of the Code

## Adjudication Panel for Wales

1.28 When I refer a case to the Adjudication Panel for Wales, its role is to establish a ‘case tribunal’ to determine whether a member has breached the Code and whether a sanction should be imposed. In addition, it will consider any appeals where permission has been obtained against the determination of a standards committee.

1.29 The powers available to a case tribunal when it determines that a member or co-opted member who is the subject of a report referred to it by me has failed to comply with the Code are:

- to disqualify the member from being, or becoming, a member of the relevant authority concerned or any other relevant authority for a period of up to 5 years
- to suspend or partially suspend the member from being a member or co-opted member of the relevant authority concerned for up to 12 months
- to take no action in respect of the breach. In such cases the Panel may deem it appropriate to warn the member as to their future conduct. Where such a warning has been recorded, it is likely to be taken into account during any future hearing where the member is found again to have failed to follow the provisions of the Code.

1.30 During an investigation, I may issue an interim report to the President of the Adjudication Panel, if I consider it necessary and in the public interest to do so. An interim report will be considered by an ‘interim case tribunal’, which will decide whether it is appropriate to suspend, or partially suspend, the member pending the completion of my investigation.

1.31 The role of an ‘appeals tribunal’ is to review the determination of a standards committee that a member has breached the Code and / or any sanction imposed. An appeals tribunal may endorse any sanction imposed, or refer the matter back to the standards committee with a recommendation as to a different sanction; or it may overturn the decision that there has been a breach. However, an appeals tribunal cannot recommend a different sanction that was not available to the standards committee when making its determination.

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- 1.32 Where either a standards committee or the Panel suspends or partly suspends a member or co-opted member, that member is still subject to the Code, in particular the provisions set out in paragraphs 6(1)(a) (bringing the office of member or authority into disrepute) and paragraph 7 (improperly using the position of member).
- 1.33 Further information about the role and procedures of the Adjudication Panel and its tribunals, including guidance on sanctions, can be found on its website: [www.adjudicationpanel.gov.wales](http://www.adjudicationpanel.gov.wales)

### The Principles

- 1.34 The Local Government Act 2000 empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these Principles which are designed to promote the highest possible standards. These Principles draw on the 7 Principles of Public Life which were first set out in the 1995 Nolan Report “Standards in Public Life”. Three more were added to these in the local government principles in Wales: a duty to uphold the law, proper stewardship of the authority’s resources and equality and respect for others.
- 1.35 Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The Principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.
- 1.36 The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship. Paragraph 2(2) of the Code states that you should read it together with the Principles, which are prescribed in a separate statutory instrument<sup>7</sup>. For ease of reference, they are replicated below.

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<sup>7</sup> The Conduct of Members (Principles) (Wales) Order 2001, SI 2002 No. 2276 (W.166)

**1. Selflessness**

Members must act solely in the public interest. They must never use their position as members to improperly confer an advantage on themselves or to improperly confer an advantage or disadvantage on others.

**2. Honesty**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

**3. Integrity and Propriety**

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

**4. Duty to Uphold the Law**

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

**5. Stewardship**

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.

**6. Objectivity in Decision-making**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may

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properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

### 7. Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

### 8. Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

### 9. Accountability

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

### 10. Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

1.37 The Code is consistent with, and provides for the practical application of, these Principles. The Principles offer a sound basis for your conduct in office and I encourage members to have regard to them **at all times**. Given the close association between the Principles and the Code, if you follow the Principles as a basis for your conduct, you are less likely to behave in a way that will constitute a failure to comply with the Code.

### Deciding when the Code applies to you See paragraphs 2 and 3



1.38 Members are entitled to privacy in their personal lives, and many of the provisions of the Code only apply to you when you are acting in your role as member or acting as a representative of your Council. However, the public rightly expects high standards of those who represent them in public office and your conduct in your private life will influence how you are perceived as a authority. Consequently, as there may be circumstances in which your behaviour in your private life can impact on the reputation and integrity of your authority, some of the provisions of the Code apply to you at all times.

1.39 When reaching a decision as to whether the Code applies to you at a particular time, I will have regard to the particular circumstances and the nature of your conduct at that time. Before considering your obligations under the Code you should first consider whether the Code applies and, if so, what provisions are pertinent.

### When does the Code apply?

1.40 The Code applies:

- **Whenever you act in your official capacity**, including whenever you are conducting the business of your authority or acting, claiming to act, or give the impression you are acting, in your official capacity as a member or as a representative of your authority (paragraph 2(1)(a)-(c)).
- **At any time**, if you conduct yourself in a manner which could **reasonably** be regarded as bringing your office or your authority into **disrepute**, or if you **use or attempt to use your position improperly to gain an advantage or avoid a disadvantage** for yourself or any other person, or if you **misuse your authority's resources** (paragraphs 2(1)(d), 6(1)(a) and 7).

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- 1.41 Where you act as a representative of your authority on another relevant authority, or any other body, you must, when acting for that other authority, comply with its code of conduct** (paragraph 3(a)).  
When you are nominated by your authority as a trustee of a charity you are obliged when acting as such to do so in the best interests of that charity, in accordance with charity law and with the guidance which has been produced by the Charity Commission (see its website: [www.gov.uk/government/organisations/charity-commission](http://www.gov.uk/government/organisations/charity-commission)).
- 1.42 If you are acting as a representative of your authority on another body, for example on the board of a housing association, which does not have a code of conduct relating to its members, you must comply with your authority's own Code** unless it conflicts with any legal requirements that the other body has to comply with (paragraph 3(b)).
- 1.43 If you refer to yourself as 'councillor' (or 'member' of your authority) in any form of communication, the Code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and Twitter. If you refer to your role as councillor in any way, or comments you make are clearly related to your role as a member, then the Code will apply to any comments you make there. Even if you do not refer to your role as a councillor or member, your comments may have the effect of bringing your office or authority into disrepute and could therefore breach paragraph 6(1)(a) of the Code.
- 1.44 The Welsh Local Government Association has produced useful guidance on social media entitled "Social Media: A Guide for Councillors". The guidance aims to provide you with a clearer idea about how you can use social media, the possible pitfalls and how to avoid them. It is available on their website at [www.wlga.wales](http://www.wlga.wales) or by calling 029 2046 8600.
- 1.45 If you are nominated by your authority as the director of a company (a stock transfer housing association for example) you are obliged to act in the best interests of the company. If it has a code of conduct for its

directors, you must abide by it. If it does not, you must comply with your authority's Code, except on the rare occasions where it conflicts with any legal obligations the company may have.

- 1.46 If you are suspended from office for any reason, you must still observe those elements of the Code which apply, particularly as set out in paragraph 2(1)(d), while you are suspended.

### **Example 1– compliance with another body's code(paragraph 3(a))**

A member was nominated by a County Borough Council to serve as a board member of a stock transfer housing association. The Chief Executive of the housing association copied all board members into a confidential email to the Chief Executive of the Council. The Councillor admitted sending the email to the local press and said that he had done so because he felt that his duty as a councillor over-rode his duty as a board member of the housing association. The Councillor was found to have breached paragraph 3(a) of the Council's Code by disclosing the e-mail in breach of the board's own code of conduct. He was also found to have brought his office and authority into disrepute by making a misleading statement that "he recently had to withdraw" from the board of the housing association when he had been removed with immediate effect for the serious breach of confidentiality.

### **Example 2 – official capacity and misuse of resources (paragraphs 2(1)(b) and 7)**

An online poll about a person accused of murder which contained inappropriate language was set up using a member's council-provided laptop, internet access and his council email address. The member said he personally had not set up the poll. The Adjudication Panel found that, as the Council had provided him with the laptop, he was responsible for it and its proper use. He also made disparaging comments about housing benefit claimants on his Facebook page when responding to a request for advice in his councillor role. The Adjudication Panel rejected his assertion that the comments had been made in a personal capacity, finding that the member



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had acted in his official capacity because he had used his council-provided equipment and email address. Therefore, he could reasonably be regarded as representing himself as a councillor.

### **Example 3 – official capacity (paragraph 2(1)(b))**

A member had sent, and encouraged an officer of the Council with whom he had a personal relationship to send, inappropriate social media messages, including messages of a sexual nature, during office hours. The Adjudication Panel rejected arguments that the member had been acting in an entirely personal capacity. It found that the member could not divorce himself from his role as the officer's quasi-employer and that, when sending or encouraging the officer to send the messages during working hours, he was acting in his official capacity.

### **Example 4 – personal capacity and disrepute (paragraphs 2(1)(d) and 6(1)(a))**

A Community Councillor, whilst acting in a personal capacity, posted a number of messages on Facebook about high-profile politicians which the Adjudication Panel found were extreme, threatening and which promoted violence towards the subjects of the messages. The Panel noted that whilst politicians were expected to possess "thick skins" and display a greater tolerance than ordinary citizens, such tolerance should not have to extend to personal, inflammatory and egregious comments such as those that had been posted. The Panel found the comments were not 'political expression', which might be afforded protection under the ECHR, and were sufficiently serious in nature as to bring the office of member and the Council into disrepute in breach of paragraph 6(1)(a).

The Panel found that, in accordance with paragraph 2(1)(d) of the Code, the requirement in paragraph 6(1)(a) for the Councillor not to bring his office or authority into disrepute applied, regardless of the fact that he was acting in a personal capacity. As the comments were made in a private capacity and did not comprise political expression, they did not attract the enhanced protection afforded to politicians under the ECHR. However, the Panel

concluded that even if enhanced protection had applied, the comments were so extreme and egregious that a finding of a breach of paragraph 6(1)(a) of the Code would nevertheless have been justified.

## 2 General obligations under the Code of Conduct

2.1 It is your responsibility to consider which provisions of the Code may apply at any given time and to act in accordance with your obligations under those provisions of the Code. I have referred to each paragraph below to provide you with some guidance on your general obligations.

### Equality See paragraph 4(a)



2.2 **You must carry out your duties 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.** This obligation underpins the principle that members must have due regard to the need to promote equality of opportunity for all people.

2.3 You should at all times seek to avoid discrimination. There are four main forms of discrimination:

- Direct discrimination: treating people differently because of their gender, race, disability, sexual orientation, age or religion.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their gender, race, disability, sexual orientation, age or religion, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.
- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

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- 2.4 The Equality Act 2010 (as amended) reinforces the importance of this part of the Code. It imposes positive duties to eliminate unlawful discrimination and harassment and to promote equality. Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply if you do something in your official capacity in a discriminatory manner.
- 2.5 You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code.
- 2.6 You must also be mindful that, at all times, including when acting in your private capacity, you must not act in a way that would bring your authority into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

### Example 5

A member of a County Council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room the member said "good candidate, shame he's black".

The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that the member had brought the office of member and his authority into disrepute, in breach of paragraph 6(1)(a) of the Code.

### Example 6

A member of a County Borough Council sent numerous emails challenging the capacity of an officer of the Council to fulfil their role due to an unsubstantiated allegation of ill-health and a known disability, without objective medical evidence. The Adjudication Panel found that the failure to understand and appreciate the officer's right to privacy, and the wide dissemination of private medical information and speculation about the

progression of the condition demonstrated a failure to adhere to the principle that there should be equality of opportunity for all people, regardless of disability. Through his actions, it was clear that the member's view was that the officer should not be employed in his role due to his disability. The Panel found the member was in breach of paragraph 4(a) (equality of opportunity) of the Code.

### Treating others with respect and consideration

See paragraph 4(b)



- 2.7 When undertaking your role as a member, you must show respect and consideration for others.** I expect members to afford the public colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. This does not mean you cannot participate in robust debate with political opponents, but it must be measured.
- 2.8** Article 10 of the (ECHR) provides a right to freedom of expression and information, subject to certain restrictions. Freedom of expression is a right which applies to all information and ideas, not just those that are found favourable. However, it is a right that may be restricted in certain circumstances, for example, for the protection of the rights and interests of others.
- 2.9** Your freedom of expression as an elected member attracts enhanced protection when comments you make are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code.
- 2.10** “Political” comments are not confined to those made within a council chamber and, for example, include comments members may generally make on their authority’s policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate a complaint about comments made in this context and I will take the view that the offended member needs a “thicker skin”, as has been stipulated by the High Court.

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- 2.11 I may also decline to investigate a complaint where the member has raised “political” issues with officers. This would not, however, include threats to an officer’s position or wellbeing. Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, officers who are in more senior positions, for example Chief Executives or Heads of Services, will also be expected to have a greater degree of robustness.
- 2.12 Whilst I recognise that political debate can, at times, become heated, the right to freedom of expression should not be used as an excuse for poor conduct generally. Such poor conduct can only discredit the role of members in the eyes of the public.
- 2.13 When considering such complaints, I will take into account the specific circumstances of the case; whether, in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said.

### **Example 7**

The Chair of a Community Council was found by a Standards Committee to have sent a number of emails containing inappropriate critical comments to another member of the Council. Two of the emails, including one which contained disparaging comments about the member’s shower habits, were copied to other members of the Council. One email confirmed that the Chair had instructed the Clerk not to accept further emails from the member, because of his “sarcastic and belligerent remarks”, until the member “had learned how to behave and conduct [himself] in a correct manner befitting a councillor.” An email critical of the member was also sent by the Chair to a member of the public. The Standards Committee found the emails amounted to a failure to show respect and consideration to the other member, in breach of paragraph 4(b) of the Code, and had brought the Council into disrepute in breach of paragraph 6(1)(a).

An Appeal Tribunal of the Adjudication Panel for Wales found that two of the emails had been sent by the Chair in a personal rather than official capacity. The Tribunal considered all of the emails contained an attack, in some form or other, on the rights and reputation of the other member. However, the Tribunal found despite being confrontational, the comments were not abusive and were in the main political in nature and attracted the enhanced protection of Article 10 of the ECHR. The Tribunal found that the email about the member's shower habits was intended to make light of the situation and had not been sent maliciously, although it acknowledged the member may have perceived it as such. The Tribunal also found that the ban on the member communicating with the Clerk was a genuine attempt to protect the Clerk from inappropriate emails by the member. The Standards Committee's decision was overturned and the sanction rescinded.

### **Example 8**

A member of a Town Council wrote a letter to a Deputy Minister of the then Welsh Assembly Government about an employee of a County Council, which he also copied to the Council. In the letter, the member questioned the employee's competence and motivation and he made a number of comments of a disparaging and personal nature about the employee and his associates. He raised the issue of homosexuality and referred to it as a "notorious disability" and that "homosexuality is only a demon which can be driven out". The member was referred to the Adjudication Panel for Wales.

The Panel found that the member had breached paragraph 4(b) in that he had failed to show respect and consideration for others. It also found that his conduct had brought the office of member into disrepute in breach of paragraph 6(1)(a) of the Code.

### **Example 9**

A member of a County Council accompanied a constituent to support her at a hearing in the County Court of an application to suspend a warrant for possession of her rented council property, sought by the member's Council. The application was dismissed. A number of the Council's officers attended the hearing, including the Finance Team Manager. Following the hearing,

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the member made comments in front of the officers and his constituent which, the Adjudication Panel found, amounted to a threat against the continued employment of one of the officers. The Panel noted there was a significant power differential between the officer, who was of a rank considerably more junior than a Director, and the member concerned as her quasi-employer. The Panel considered the member's right to freedom of expression did not outweigh the officer's right not to be subjected to unwarranted comments, or the public interest in officers being able to carry out their duties. The Panel found that the member's conduct was intended to upset the officer and cause her to fear for her job in the future and, as such, amounted to a breach of paragraph 4(b). The Tribunal also found the member's conduct amounted to bullying of the officer concerned in breach of paragraph 4(c).

### Example 10

At a meeting purportedly arranged to discuss Cabinet matters, the Leader of a County Borough Council instead took the opportunity to challenge the performance of the Council's Chief Executive. He did this in front of another member of the Council and members of the Council's management team, who were subordinate to the Chief Executive. The Adjudication Panel noted the Leader made no attempt to abide by the Council's protocol covering member / officer relations. He did not give the Chief Executive any indication prior to the meeting that he intended to raise performance issues. The Panel concluded that the Leader's conduct towards the Chief Executive was inappropriate and hectoring and amounted to a failure to show respect and consideration, in breach of paragraph 4(b) of the Code).

### **Bullying and harassment** See paragraph 4(c)

 Consider your conduct from  
the other person's perspective

**You must not use any bullying behaviour or harass any person including other councillors, council officers (the Clerk or Proper Officer) or members of the public.**

2.14 Harassment is repeated behaviour which upsets or annoys people.

Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person, or a person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in questioning policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

2.15 When considering allegations of bullying and harassment, I will consider

both the perspective of the alleged victim, and whether the member intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied.

Bullying is often carried out face to face but, increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

2.16 You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances, but the relative seniority of the officer will be a factor in some cases. As outlined in my comments about paragraph 4(b) (respect and consideration) of the Code, very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member, the greater the likelihood that the officer will consider behaviour to constitute bullying.



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- 2.17 The High Court has found that there is a public interest in protecting public confidence in unelected public servants which is to be balanced against the interests of open discussion on matters of public concern. It also found that all members should equally respect the mutual bond of trust and confidence between themselves and the officers which is crucial to good administration.
- 2.18 Local authorities have appropriate channels for expressing concern about the performance of an officer and it is important that you raise issues about poor performance in the correct way and proper forum. Raising such issues in the context of a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable. Neither is it acceptable to do so in the media, in your own publications or using blogs, tweets, Facebook or other electronic means. If your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.
- 2.19 The Adjudication Panel has made a number of findings against members who have sought inappropriately to use their position of power relative to junior officers to influence the actions of those officers, or whom have made unwarranted comments about the performance or actions of officers.

### Example 11

A member of a County Council telephoned a private care home contracted to provide services to the Council to say that he wanted to attend the home that day to visit a child in its care. He was advised by a care worker that he could not do so, as he was not named on the child's care plan. The member said that he would attend that day with a colleague. He was advised that the police would be called if he did so. At a later date, the member attended the head office of the care home at the invitation of, and to provide support to, the father of the child with the aim of attending a scheduled therapy meeting. The therapy meeting was cancelled as a consequence of the member's unauthorised presence. The member's actions were found to be in contravention of his Council's adopted 'Protocol on the Role of Elected Members in Safeguarding Vulnerable Children and Adults'. The Council's Standards Committee found the member's interaction with the care home staff had become increasingly hostile. His conduct during the course of the telephone call was intended to undermine the care worker in her role

and to exert pressure on her to allow him to attend the care home. The Standards Committee found there was a power imbalance between the care worker and the member, who had sought to use his position inappropriately in an attempt to gain access to the child. The Standards Committee found the member had used bullying behaviour and harassment in breach of paragraph 4(c) of the Code.

### Example 12

A member of a County Council sent a critical email to an officer's Head of Service and copied it to the officer and a number of other members of the Council. In the email, the member described the officer as 'arrogant, lazy, mentally challenged and has been useless for years.' The member asked why the officer was not called to account and expressed the view that the officer was not worth his salary. The member sent a further email to the officer concerned and posted a 'Twitter' message on social media in which she referred to the investigation by my office in the following terms: 'My sin; ticking off LAZY officer Ugg!'. The impact of the emails led the officer to seek medical and other support and resulted in him taking sickness absence due to stress. The Adjudication Panel found the emails and Twitter message were completely unwarranted and would have adversely affected the officer's ability to carry out his role. The member had not previously raised the professionalism of the officer with senior management. The Panel found the member's conduct amounted to a breach of paragraph 4(b) (respect and consideration). Although falling short of repeated harassment, the Panel found the member's behaviour also amounted to deliberate bullying of the officer and a breach of paragraph 4(c) of the Code.

**Compromising the impartiality of officers of the authority**  
See paragraph 4(d)



**2.20 You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your authority.** You should not approach anyone who works for, or on behalf of, the authority with a view to pressurising them to carry out their duties in a biased or partisan way. They

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must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not ask officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. As well as avoiding pressurising officers in person, you need to avoid doing so in writing, using electronic media or in the press.

- 2.21 Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.
- 2.22 If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code. I would encourage you to adhere to any protocol developed by your authority that deals with relationships between members and officers.

### Example 13

The son and daughter-in-law of a member of a County Borough Council were neighbours of a family who were tenants of the Council. Complaints had been made about the family's conduct. The member contacted officers of the Council regarding the family's occupancy of the council property and its impact on his son's family on a number of occasions, sometimes outside office hours. The calls were made in his role as an elected member and he had direct access to officials because he was a member. He received a warning from the Deputy Monitoring Officer as to his conduct, which emphasised the powerful position elected members occupy when dealing with members of staff.

Despite this he continued to contact officers about the matter, including requesting an officer to visit his family "there and then" and accusing an officer of "tipping off" the family being complained about that noise monitoring equipment was being installed.

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The Adjudication Panel for Wales found that the conduct of the member was a persistent course of conduct over a period of 6 months, intended to bring undue pressure upon council officers. It found that, through his actions, he had sought to compromise the impartiality of officers of the Council. It also found that the member had failed to show respect and consideration for others and that his actions amounted to harassment and he had used his position improperly to promote the interests of his own family. Given the accumulative nature of his dealings with officers and his making a false allegation that an officer had “tipped off” the family, he had also brought the office of member into disrepute.

### Example 14

A member of a County Borough Council who had previously raised concerns with the Council’s Chief Executive, telephoned his (the Chief Executive’s) Personal Assistant and put her under pressure to persuade the Chief Executive to take a particular course of action. The member also pressed the Personal Assistant to access the Chief Executive’s emails without his express instruction. The member told the Personal Assistant that if she did not do what he asked, the Local Education Authority might be “called in”. The Adjudication Panel found that the member had gone beyond making a request to the Personal Assistant, due to the vehemence in which he had made his demands, combined with the veiled threat that if the Personal Assistant did not take the action that he required, the Local Education Authority would be “called in”. The Panel found the member had attempted to compromise the impartiality of the Personal Assistant in breach of paragraph 4(d).

### Disclosing confidential information See paragraph 5(a)



**2.23 You must not disclose confidential information, or information which should be reasonably regarded to be of a confidential nature, except in any of the following circumstances:**

- you have the consent of the person authorised to give it
- you are required by law to do so.

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- 2.24 The Information Commissioner has issued helpful guidance on the Freedom of Information Act and Data Protection Act which is available on the Commissioner's website at [www.ico.org.uk](http://www.ico.org.uk) or by calling 0303 123 1113. As a member, you may be party to confidential information about individuals or organisations including personal or commercially sensitive matters. This might include information about people's employment, or personal matters arising from social services work, for instance. Sometimes, these will be marked 'confidential'. On other occasions, this will not be the case, but you must not disclose them even if they are not marked as confidential. If you are in any doubt, always ask your Monitoring Officer.
- 2.25 As a general rule, you should treat items discussed in the confidential sections of meetings ('exempt' items) as confidential. These reports have usually been assessed by the author as containing sensitive information, following expert legal advice. The sensitivity of the information may decline over time, but you are strongly urged to take proper legal advice before disclosing it. Similarly, legal advice, whether provided by external lawyers or your authority's in-house legal staff, is almost always covered by legal privilege and should not be disclosed
- 2.26 I expect information provided to members during the course of an investigation by my office to be treated in the strictest of confidence and it should not be disclosed to anyone other than the member's legal or other adviser. If the information is disclosed to other persons, I may consider this to be a breach of this paragraph of the Code. In addition, members should not discuss the complaint with any of the witnesses, whether directly or indirectly, as such contact may also be construed to be a breach of the Code.

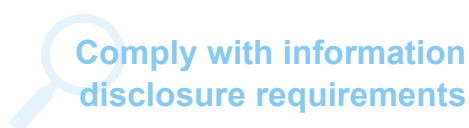
### **Example 15**

A member of a County Borough Council who sat on the Council's adoption panel disclosed to a third party details of a person who had applied to the panel to adopt a child and the outcome of the application. He could only have become aware of the information he disclosed by virtue of his membership of the panel. The Adjudication Panel found that the member had disclosed confidential information in breach of the Code.

### Example 16

A member of a County Borough Council circulated information about an officer's medical condition to other members of the Council, a local headteacher and another person with whom he was acquainted. In the judgment of the Adjudication Panel, the member had disclosed information about the officer's health which should reasonably be regarded as being of a confidential nature and without the consent of the officer, in breach of paragraph 5(a).

### Preventing access to information See paragraph 5(b)



#### 2.27 You must not prevent any person from accessing information which they are entitled to by law.

2.28 This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting [www.ico.org.uk](http://www.ico.org.uk) or by calling 0303 123 1113; or for specific queries, you should ask your Monitoring Officer.

2.29 Information that you produce in your official capacity is liable to be subject to the disclosure requirements of the Freedom of Information Act, and your authority may be required to release it in response to a request. If you do not provide the information to the relevant officer of your authority on request, you will be in breach of the Code.

2.30 Your authority needs to decide whether to disclose information or whether it may be covered by an exemption under the Freedom of Information Act. Even if you believe that information you hold is exempt, you must provide it to your authority's relevant officer to allow the authority to reach a decision. As well as being a breach of the Code, it is a criminal offence if information is destroyed after a Freedom of Information Act request has been received.

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### Example 17

The Leader of a County Council refused to give the Council's Information Officer a letter he had written to the then Wales Audit Office, on behalf of the Council's Executive. As a result, the Council could not respond appropriately to a Freedom of Information Act request which resulted in a complaint being made to the Information Commissioner's Office. The member continued to refuse to disclose the letter despite having received clear and unequivocal advice from the Information Officer. His refusal led to an adverse finding from the Information Commissioner's Officer. The Adjudication Panel found that the member had breached paragraphs 5(b) and 6(1)(a) (disrepute) in respect of this matter and other related matters.

**Disrepute**  
See paragraph 6(1)(a)

 Any conduct unbecoming of a member can constitute disrepute

- 2.31 You must not behave in a way which could reasonably be regarded as bringing your office or authority into disrepute at any time.** As a member, your actions and behaviour are subject to greater scrutiny than those of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on the public perception of your office as a member, or your authority as a whole. You should also ensure that you do not engage in any behaviour that may prejudice an investigation undertaken by me or your Monitoring Officer, as this may also constitute disrepute (see also paragraph 6(2)).
- 2.32 When considering whether a member's conduct is indicative of bringing their office or their authority into disrepute, I will consider their actions from the viewpoint of a reasonable member of the public. It is likely that the actions of those members in more senior positions, such as the Leader, an Executive Member of Committee Chair, will attract higher public expectations and greater scrutiny than ordinary members. It is more likely, therefore, that inappropriate behaviour by such members will damage public confidence and be seen as bringing both their office and their authority into disrepute. This does not mean that inappropriate behaviour by ordinary members can never bring their authority into disrepute.

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- 2.33 Dishonest and deceitful behaviour will bring your authority into disrepute, as may conduct which results in a criminal conviction, especially if it involves dishonest, threatening or violent behaviour, even if the behaviour happens in your private life.
- 2.34 Whilst you have the right to freedom of expression, this is not unrestricted and making unfair or inaccurate criticism of your authority in a public arena might be regarded as bringing your authority into disrepute. Similarly, inappropriate emails or careless or irresponsible use of social media might bring the office of member into disrepute, bearing in mind the community leadership role of members. Cases considered by the Adjudication Panel have shown that such behaviour will often be viewed as a serious breach of the Code.
- 2.35 You must also conduct yourself in an appropriate manner with others within the confines of your authority's building, regardless of whether your conduct is likely to be in the public domain.

### **Example 18**

A Community Councillor attempted to obtain a discount on a private purchase from a shop by saying it was being bought on behalf of the Community Council. When his request for a discount was refused, he was abusive to the proprietor and two members of her staff and made threats against the business. The Adjudication Panel found that the member attempted to gain an improper advantage for himself, by misrepresenting the purchase as being on behalf of the Council, and his abusive behaviour towards the staff had brought the office of member into disrepute.

### **Example 19**

Whilst acting in a private capacity, a member of a County Borough Council received a criminal conviction for common assault as a consequence of the unsolicited touching of the leg of a female, which caused her distress. The Adjudication Panel heard that the member accepted that his behaviour was unacceptable and had pleaded guilty to the offence in the Courts. The



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Panel found that the conviction and negative publicity that surrounded the case had brought the member's office into disrepute, in breach of paragraph 6(1)(a) of the Code

### Reporting criminal behaviour See paragraph 6(1)(b)



**2.36 The Code requires you to report any conduct by another member, an officer, or anyone who works on behalf of your authority (e.g. a contractor) which you reasonably believe involves or may involve criminal behaviour.** Such matters should be reported through your authority's confidential reporting procedure, or direct to the proper statutory authority. As with alleged breaches of the Code (see below), you should not make vexatious, malicious or frivolous allegations, which would themselves be capable of being a breach, by you, of paragraph 6(1)(d) of the Code. If in doubt, consult your authority's Monitoring Officer.

### Reporting breaches of the Code See paragraph 6(1)(c)



**2.37 If you reasonably believe that a breach of the Code has occurred, you must report it to the Monitoring Officer.** There is no express requirement to report the matter to me, although allegations about serious breaches of the Code can and should be reported to my office.

**2.38** In order to have a reasonable belief that a breach has occurred, you will need to have direct evidence (see below) which supports this. If you are in doubt as to whether a breach has occurred, you should consult your Monitoring Officer as soon as possible.

**2.39** Your Monitoring Officer will be able to advise you whether the nature of the alleged breach warrants the matter being referred to me. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred, your Monitoring Officer may suggest that the matter would be more appropriately dealt with through the authority's local resolution process.

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- 2.40 In the most serious of cases, or where the local resolution process breaks down or is unsuitable, your Monitoring Officer may, as an exception, decide to refer them to me directly or on your behalf. In most other cases, you will be advised to do so yourself.
- 2.41 The decision as to whether to investigate a breach rests with me. The balance of any doubt should always favour reporting. It is helpful if you specify which aspect of the Code you believe has been breached.
- 2.42 In determining whether to investigate a complaint of a breach, I will use the two-stage test that I have outlined in the Introduction to this guidance. You should ensure that you provide any evidence you have available when you make a complaint including minutes of meetings, correspondence, contemporaneous notes or emails. If there are other individuals who have witnessed the alleged breach, you should let me know who they are. This latter point is especially important because, if I only have one person's word against another's, I may not be able to conclude with sufficient certainty that there is enough evidence to warrant pursuing the matter.
- 2.43 To report a potential breach, you can contact my office by phone at 0300 790 0203, by email to [ask@ombudsman.wales](mailto:ask@ombudsman.wales) or via the website at [www.ombudsman.wales](http://www.ombudsman.wales). A special leaflet on making complaints about alleged breaches of the Code is available on request or on the website.

### Vexatious complaints

See paragraph 6(1)(d)



- 2.44 **You must not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.**
- 2.45 You must not make complaints against other members, your authority's officers or people working on behalf of your authority which are not founded in fact and which are motivated by malice (a desire to do them harm) or by political rivalry. Unfortunately, there have been instances where members have sought to bring complaints about rivals which are designed to disadvantage them, sometimes in the run-up to elections, and

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where the evidence of any breach is weak or non-existent. I consider that in the first instance such conduct should be considered under the relevant authority's local resolution process.

2.46 Where specific details of such complaints are passed to local press and media, this may prejudice an investigation and, as I have explained, may also be a breach of the Code. You must report well-founded alleged breaches to your Monitoring Officer - not to your local newspaper or radio station. The press will properly cover the business of any subsequent hearings and their outcomes, and members making allegations should not generate publicity in advance of these.

2.47 The Code should not be used by members to pursue their political or private differences. You should therefore avoid making complaints which have little or no substance (frivolous complaints) which are designed mainly to annoy the person complained about, , for example, when you may disagree with a member's approach to your authority's business or their role as member. Where I find evidence to suggest that a complaint has been made to my office which is not founded in fact and has been motivated by malice or political rivalry, I will consider this to be a serious matter and I may investigate whether you have failed to comply with the Code in submitting the complaint. **Making vexatious, malicious or frivolous complaints is not only a breach of this paragraph, but may also be contrary to your other obligations under the Code, such as the requirement not to bring your position as a member into disrepute (paragraph 6(1)(a)) or not to use your position for an improper purpose (paragraph 7(a)).**

### Example 20

A member of a County Borough Council alleged that the Leader of the Council had offered to provide another councillor and his group of members with office facilities, if that other councillor supported the Leader's preferred candidate for the post of Chief Executive. The Adjudication Panel found that the allegation was without foundation and was designed to cause damage to the Leader of the Council. As such, it was both a vexatious and malicious complaint, contrary to paragraph 6(1)(d) of the Code. The Panel also concluded that the surrounding publicity had brought the Council into disrepute in breach of paragraph 6(1)(a).

### Co-operating with investigations See paragraph 6(2)



**2.48 You must co-operate with an investigation when it is being conducted by me or by your Monitoring Officer using our statutory powers.** Not to do so is itself a breach of the Code. This means that you should reply promptly to all correspondence and telephone calls, make yourself available for interview if required and make available copies of any requested documents, including electronic communications such as emails and texts. It would be helpful if you could identify any concerns that you may have during the course of the investigation so that these can be promptly resolved. My office and your Monitoring Officer will make reasonable allowances for urgent pressures you face and arrangements previously made, for example, for holidays. However, you are expected to give priority to their investigations, to avoid matters being needlessly drawn out. The requirement to co-operate with an investigation applies whether you are a witness or the subject of the investigation.

2.49 I am aware of instances where members accused of breaches of the Code have sought to put pressure on the individuals making the complaint or on other witnesses. I regard such behaviour as entirely unacceptable. You must not intimidate or attempt to intimidate any person who is, or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code. In one case I investigated, the Adjudication Panel found that the member's actions in threatening the complainant could be described as akin to blackmail. As such, the Panel considered this to be more serious than the complaint which had led to my investigation in the first place.

2.50 However much you may be concerned about allegations that you or a fellow member failed to comply with the Code, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

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2.51 If you intimidate a witness in an investigation about your conduct you may, for example, find yourself subject to another complaint that you have breached paragraph 4(c) of the Code with regard to bullying or harassment, or paragraph 6(1)(a) in respect of bringing the office of member into disrepute.

### **Example 21**

My office investigated a number of separate serious allegations that a member of a Community Council had failed to comply with his Council's Code of Conduct, following which three reports were referred to the Adjudication Panel for Wales. During the course of the investigation the member refused to engage properly with the process, was obstructive in that he refused to accept the delivery of papers, and made a number of threats, including legal action, against the investigating officer and other members of the Council. The Adjudication Panel found that the member's failure to provide a proper and substantive response to requests made by my office during the investigation was a breach of paragraph 6(2) of the Code.

### **Example 22**

During the course of an investigation into alleged inappropriate messages posted on Facebook by a Community Councillor, the member concerned failed to provide information to my office about historic changes made to the privacy settings on his account. He claimed to not know how to do so, and did not respond when sent advice by my office on how to access his activity log. The Adjudication Panel found the member had been less than candid about his ability to check any change of settings on his account, when he was clearly an experienced user of Facebook. The Panel found the Councillor had deliberately avoided providing information and full and frank responses to the reasonable requests of my office, in breach of paragraph 6(2) of the Code.

### Using your position improperly See paragraph 7(a)



- 2.52 You must not use, or attempt to use, your position as a member improperly to the advantage or disadvantage of yourself or any other person.<sup>8</sup> This paragraph applies at all times and not just when you are carrying out your duties as a member. You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member. This also applies if you use your office to improve your wellbeing at the expense of others.**
- 2.53 Members who own land, or whose close personal associates own land, need to be particularly cautious where planning matters are concerned. If you are in any doubt, you should take advice. This applies equally to members of community councils when your Council is consulted on planning matters. Similarly, while it is reasonable to expect members to help constituents apply to the Council, for example, for housing, it is quite inappropriate to seek to influence the decision to be taken by the officers.
- 2.54 The provisions of the Bribery Act 2010 apply to members carrying out their public functions. Should a member be convicted of a criminal offence under this Act, then it is likely that they will also have used their position improperly (in breach of paragraph 7(a)) and be likely to have brought the office of member or their authority into disrepute in breach of paragraph 6(1)(a). If any complaint which is made to me concerns conduct which may amount to a criminal offence then I am likely to refer the matter to the police.

<sup>8</sup> In legislation, the use of 'person' includes a body of persons corporate or unincorporated – see Schedule 1, Interpretation Act 1978; and Schedule 1, Legislation (Wales) Act 2019 (for Welsh legislation made on or after 1 January 2020).

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### Example 23

A member of a County Council had requested that land in his ownership in Village A be included as suitable for development in the Council's Local Development Plan (LDP). When the Council was considering suitable settlement areas for inclusion in the LDP, officers recommended that land in the neighbouring village (Village B) be included in the draft plan instead. Despite having received very clear advice from the Council's Monitoring Officer on his prejudicial interest, the member emailed the Council's planning policy officer and outlined a number of arguments which he claimed favoured the inclusion of his land in Village A as opposed to the land in Village B. At the relevant time the draft plan had been disclosed to members of the Council on a confidential basis and had not been disclosed publicly.

The Adjudication Panel found that, by sending the email, the member had breached paragraph 7(a) of the Code by attempting to use his position improperly for his own advantage. At the hearing, he sought to apportion blame on the Council's Monitoring Officer for failing to advise and train him properly on the Code, when this clearly was not the case. His actions also brought his office and the Council into disrepute..

### Example 24

A member of a National Park Authority being investigated by my office for alleged inappropriate behaviour towards another member, spoke with the Chair of the Authority in an attempt to have the matter dealt with through a roundtable discussion of the parties involved. The member threatened to disclose information publicly about the complainant if the complaint to my office was pursued and went against him. The Adjudication Panel found that this amounted to an attempt by the member to use his position improperly in order to avoid a potential disadvantage, as well as breaches of paragraphs 4(b) (respect and consideration) and 6(1)(a) (disrepute) of the Code.

### Example 25

A member of a County Borough Council made representations to council officers on behalf of a constituent about matters relating to the purchase by the constituent of a parcel of Council-owned land through a tender process. This included the removal of a restrictive covenant which rendered the land of little value to the constituent given his intention to develop it. The member volunteered in evidence before the Council's Standards Committee that his involvement was a possible way of mitigating legal costs for his constituent. Throughout his involvement, the member failed to disclose that he had a close personal association with the constituent, who he had known for 40 years and regarded as a close personal friend who he saw almost daily. The Standards Committee found that the member had breached paragraph 7(a) (and other paragraphs) of the Code in that through his interventions he had sought to use his position improperly to confer an advantage upon and avoid a disadvantage for his friend. This would potentially create a disadvantage for any member of the public who might wish to express an interest in the land had it been on the open market (as the absence of the restriction would have required), especially the lower bidder in the original tender process..

### Using the authority's resources See sub-paragraphs 7(b)(i) – (iv)

 Only use resources for lawful and permitted purposes

- 2.55 You must only use or authorise the use of the resources of the authority in accordance with its requirements and the law. These sub-paragraphs also apply at all times.** Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from officers), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.
- 2.56** You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code. If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.



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### Using resources for proper purposes only See sub-paragraphs 7(b)(v) and (vi)

Do not use resources for private or political purposes

- 2.57 **You must make sure you use the authority's resources for proper purposes only. These sub-paragraphs apply at all times.** It is not appropriate to use, or authorise others to use, the resources for private or political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any guidance issued by your authority, for example, your authority's Information Security Policy.
- 2.58 You should never use authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes. However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business, for example, holding meetings of your political group. In this case, you must be aware of the limitations placed upon such use for these purposes. Members should also have regard to the fact that periods leading up to local government elections are particularly sensitive in this regard. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code. Some authorities will permit members to use authority-supplied IT equipment such as laptops for ancillary use. Provided that such usage is in line with the authority's requirements, there would not be a breach, but sending mass emails as part of an election campaign, for example, would not be appropriate.
- 2.59 Where, however, there is no policy or the policy is silent you may not use these resources for any political or private purposes.

#### Example 26

A member of a County Council was found in breach of the Code for making improper use of his council-issued computer equipment for private purposes by downloading adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. The Adjudication Panel found that the member had misused the Council's equipment in breach of the Code and had brought the office of member into disrepute.

### Example 27

A member of a County Borough Council was found by the Adjudication Panel to have breached the Code by using his council-issued mobile phone excessively for private purposes. Whilst limited personal use was permitted under the Council's IT policy, a bill in excess of £1000 was incurred in respect of private calls which the member had made.

### Reaching decisions objectively See paragraph 8(a)



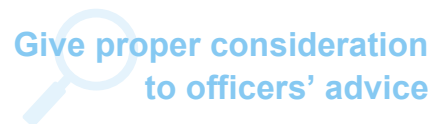
- 2.60 **When taking part in meetings of your authority, or when arriving at decisions relating to the authority's business, you must do so with an open mind and consider the issues objectively, having regard to any relevant advice of your authority's officers.** During the decision-making process, you must act fairly and take proper account of the public interest.
- 2.61 In some decisions, such as those taken by planning committees or where you are participating in the consideration of a ward matter, you are required always to make your decisions on the basis of the facts in front of you, and not to have made your mind up in advance to such an extent that you are entirely unprepared to consider all of the evidence and advice you receive. Having a completely closed mind is known as **pre-determination**. You are entitled to hold a preliminary view about a particular matter in advance of a meeting (**pre-disposition**) as long as you keep an open mind and are prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching your decision.
- 2.62 **Pre-determination**, on the other hand, would be where you have clearly decided on a course of action in advance of a meeting and are totally unwilling to consider the evidence and arguments presented on that matter during the meeting. Pre-determination could not only invalidate the decision, it would also amount to a breach of the Code.

## The Code of Conduct – for members of local authorities in Wales

- 2.63 Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of an overview or scrutiny committee meeting from voting on a question at a meeting if, before the meeting, the member has been given a party whip relating to the question.
- 2.64 In order for me to investigate complaints of “whipping” of votes by political groups, there must be written evidence or other corroborative evidence available of the whip. Suppositions based upon the voting patterns of particular groups will not be sufficient evidence of a whip.

### Considering advice provided to you and giving reasons

See paragraph 8(b)



- 2.65 **You must give reasons for all decisions in accordance with any legal requirements and any additional requirements imposed by your authority.** You must have regard to all of the advice you receive from your authority’s officers, especially advice from the Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Legal Officer, where they give it under their statutory duties. Such advice may also be contained in policy and guidance documents produced by your authority. This is a complex area and there are provisions within other legislation which underpin it but, in general, it goes well beyond a requirement to simply consider and reject advice if it is not welcome.
- 2.66 I expect members to follow the advice unless there are strong reasons not to do so, and where a decision is made not to follow advice, it is highly advisable to record the reasons for not doing so.
- 2.67 It is worth reflecting also that this places a considerable onus on statutory officers to consider their formal advice carefully, and again, where they believe it is likely to be contentious, to keep a record of it. There may be isolated cases where advice is given to a member which, when followed, leads to a breach of the Code. In investigating such cases, if the evidence suggests that there has been a breach, I would generally regard the flawed advice as a factor in mitigation, rather than as evidence that no breach occurred.

## The Code of Conduct – for members of local authorities in Wales

- 2.68 It is always helpful, if you can, to seek and obtain advice as early as possible. If you can, ask for advice in good time before a meeting, rather than at the meeting or immediately before it starts. Make sure you give the officer concerned all of the information they need to take into account when giving you advice
- 2.69 If you seek advice, or advice is offered to you, for example, on whether you should register a personal interest, you should have regard to this advice before you make up your mind. Failure to do so may be a breach of the Code.
- 2.70 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected, but it is not confined to these.
- 2.71 As a matter of good practice, where you disagree with officer recommendations in making a decision, you should give clear reasons for your decision. This applies to decisions to vote against the advice of the statutory officers, even if you lose the vote. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes. You should be aware that voting against the advice of the statutory officers without good reason may be a breach of the Code.
- 2.72 In reaching decisions where the advice is not provided by the statutory officers, you should still have regard to the advice provided by officers and take it into account in reaching your decision. You may also wish to have regard to other advice you have received and, of course, to the position adopted by a political group of which you are a member. In some circumstances, such as planning decisions, you must not vote on the basis of a "whip" imposed by your group. In others, it is reasonable to do so but you should avoid having an entirely closed mind prior to a debate. Again, whatever the reasons for voting against officer advice, it is highly advisable to record them.

## The Code of Conduct – for members of local authorities in Wales

### Example 28

A member of a County Council who chaired a council meeting refused to allow the Council's Monitoring Officer to advise members during a debate about the Council's "Annual Letter" from the then Wales Audit Office. Also, when the Monitoring Officer did manage to intervene to express grave concerns about the way in which the proceedings were being conducted, the member failed to have regard to the limited advice the Monitoring Officer was allowed to offer and simply said that he "noted her comments".

The member was found to have breached paragraph 8(a)(iii) (regard to monitoring officer advice) of the Code. The Adjudication Panel took into account the member's full apology and expressions of remorse for his behaviour and indicated that had the member not already accepted his wrongdoing it would have imposed a greater sanction than it did.

### Expenses See paragraph 9(a)



- 2.73 You need to follow the law and your authority's requirements in claiming expenses and allowances.** If you are in any doubt about your entitlements, or the proper way to claim, you should ask for advice. You need to keep proper records of expenditure, supported by receipts where appropriate, so that you can properly evidence your claims. Even if a particular scheme does not require you to submit receipts, you are strongly advised to keep these so that you can prove how much you have actually spent on the items you are claiming, for example, for childcare.

### Example 29

A member of a County Borough Council was alleged to have used the Child/Dependent Care Allowance to pay his wife to look after their daughter. During the investigation, it transpired that he had paid his adult son (from a previous marriage) a regular weekly income to care for the child as and when required. The member was able to provide proof of the payments through receipts and cheque counterfoils. In view of this, there was no evidence of any failure on the part of the member to comply with the Code

## Gifts and hospitality

See paragraph 9(b)



**2.74 It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so.** Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council. This is also true of any services or gifts in kind. This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your authority. (See also the section of this guidance on registering gifts and hospitality under paragraph 17 of the Code).

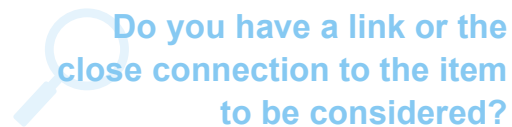
## 3 Personal and prejudicial interests

- 3.1 The elements of the Code which cover personal and prejudicial interests give rise to many questions from members. They are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of members of authorities or their close personal associates.
- 3.2 Personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could reasonably conclude that the interest is likely to influence your vote, or your decision.
- 3.3 In my experience, it is the distinction between personal and prejudicial interests, and what action a member should take depending on the nature of their interest, that causes the most difficulty for members. The paragraphs below are designed to offer guidance in this area. I would strongly recommend that if you are in any doubt about whether you have a personal or prejudicial interest, and, if so, what you need to do, you should ask your Monitoring Officer for advice. However, the decision on what course of action should be taken remains with you.

## The Code of Conduct – for members of local authorities in Wales

- 3.4 To provide some further assistance, I have attached two flowcharts at Appendix 2 and 3 which Ceredigion County Council's former Monitoring Officer designed to take you through the questions that you should ask when deciding whether you have an interest. They are for illustration purposes only and are not definitive.
- 3.5 Guidance on registering interests is at Section 4.

### Personal Interests See paragraph 10



- 3.6 **While you are carrying out your duties, you must consider whether you have a personal interest and, if so, whether you need to disclose it.** Most members know that you need to disclose personal interests at meetings, but there are other occasions, such as when speaking to your authority's officers about the matter concerned, when you may also need to do so.
- 3.7 Listed below are some questions that you should ask yourself when deciding if you have an interest:

#### Do I have a personal interest?

- 3.8 You have a personal interest in any business of your authority, including when making a decision, where it relates to or is likely to affect:
1. your job or your business
  2. your employer, or any firm in which you are a partner or paid director
  3. any person who has paid towards the cost of your election or your expenses as a member
  4. any company in which you hold shares with a nominal value of more than £25,000 or where your holding is more than 1% of the total issued share capital, which has premises or land in your authority's area

## The Code of Conduct – for members of local authorities in Wales

5. any contract that your authority makes with a firm in which you are a partner, paid director or hold shares in (as described in 4, above)
  6. any land in which you have an interest and which is in your authority's area (this is especially important in all planning matters including strategic plans)
  7. any land let by your authority to a firm in which you are a partner, paid director or a body (as set out in 4, above)
  8. any body to which you've been elected, appointed or nominated by your authority
  9. any of the following in which you have membership or hold a position of general control or management:
    - public authority or body exercising functions of a public nature
    - company, industrial and provident society, charity or body directed to charitable purposes
    - body whose main role is influencing public opinion or policy
    - trade union or professional association
    - private club, society or association operating in your authority's area
  10. any land in your Council's area which you have a license to occupy for at least 28 days
  11. any person with whom you have a close personal association.
- 3.9 It is always safer to declare an interest, however, if in doubt, consult your Monitoring Officer.



## The Code of Conduct – for members of local authorities in Wales

### Matters affecting your well-being or financial position



Will your well-being or that of a close associate be effected?

- 3.10 If a decision might be seen as affecting your well-being or financial position or the well-being or financial position of any person who lives with you or with whom you have a **close personal association** to a greater extent than other people in your ward or, for members of authorities which do not have wards (for example, national parks), in your authority's area, you have a personal interest.
- 3.11 Examples of decisions of this kind include, but are not limited to, obvious issues like contracts being awarded to your partner's company, but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have also included the location of playgrounds, where elected members have opposed them near their houses because of issues about noise.

### What is “a body exercising functions of a public nature”?



Does the body carry out a public service?

- 3.12 The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether a body meets that definition:
- Does that body carry out a public service?
  - Is the body taking the place of local or central government in carrying out the function, for example, a care home with residents supported by social services?
  - Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority, for example, a private company collecting refuse for the authority?
  - Is the function exercised under legislation or according to some statutory power?
  - Can the body be judicially reviewed?

## The Code of Conduct – for members of local authorities in Wales

3.13 Unless you answer ‘yes’ to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature. Examples of bodies included in this definition are health bodies, council-owned companies exercising public functions and school governing bodies. If you need further information or specific advice on this matter, please contact your Monitoring Officer..

### What does “affecting well-being or financial position” mean?

Is your quality of life affected?

3.14 The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being. A personal interest can affect you or your close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

### Who is a close personal associate?

Close personal associates include friends, relatives, business associates and those with whom you have been in dispute

3.15 Close personal associates include people such as close friends, colleagues with whom you have particularly strong connections, business associates and close relatives. It does not include casual acquaintances, distant relatives or people you simply come in contact with through your role as a member or your work in the local community. It also does not include a person, such as a close relative, with whom you have become estranged and it would be unreasonable for you to have knowledge of their business or other interests, or the potential impact on their well-being of a matter considered by your authority.

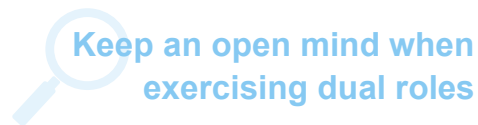
3.16 Close personal associates can also include someone with whom you have been in dispute, or whom you may be regarded as having an interest in disadvantaging. For example, being a member of the same golf club as another person would not of itself constitute a close personal association, but having that person as a weekly golf partner might well do. If you are in doubt, you should ask your Monitoring Officer.

## The Code of Conduct – for members of local authorities in Wales

### What if I belong to an authority without wards or electoral divisions?

3.17 If you are a member of an authority that does not have wards or electoral divisions, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you or one or more of your close personal associates, **more than** it would affect other people in your authority's area. If you are a local authority member of a fire authority, for example, you would need to declare an interest under this heading on matters concerning your nominating authority's area.

#### “Twin hatted” members



3.18 If you are a member of both a community council and a county or county borough council, you are not prevented from discussing the same matters at both. You may, for example, take part in a discussion about a planning application about which your Community Council has been consulted and still go on to participate in a decision about the application if you sit on the Planning Committee of your County Council.

3.19 If you do so, you would be well advised to state at the Community Council meeting that you would be looking at the matter afresh when you consider it at the County Council meeting, and that you would take into account all of the information and advice provided to you. At the Planning Committee, you should make it clear that you are not bound by the views of the Community Council. The advice about objective decision making in respect of paragraph 8 of the Code is also relevant here.

3.20 Obviously, if the planning application was one submitted by the Community Council, then you would have both a personal and a prejudicial interest, and you would be required to declare it and withdraw in line with the guidance on “what to do if you have a prejudicial interest” below.

**Example 30**

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered the Clerk's remuneration package; the member and the Clerk were in a relationship and engaged to be married at the time. The Adjudication Panel found that the member should have declared a personal interest in the item of business by virtue of his close personal association with the Clerk. It considered also that the nature of the member's relationship with the Clerk was one that gave rise to a prejudicial interest, as it concerned a significant benefit for the future spouse. The Adjudication Panel considered that the interest was one that would affect public perception of the members' ability to make a decision in the public interest. The Adjudication Panel reiterated that the test was not whether the member took the decision without prejudice, but whether he would have been seen as doing so.

**Example 31**

A member of a County Borough Council made numerous representations to his Council's officers on behalf of a constituent who was involved in the purchase of Council-owned land that was being sold by way of a tender process. The member and constituent were long-standing close personal friends, having been acquainted for some 40 years. The constituent stood to gain financially from the member's intervention. The Adjudication Panel found that the member did not consider (as required by paragraph 10(1) of the Code) whether he had a 'personal interest' when he spoke, wrote and attended meetings about the land; and he did not disclose the existence and nature of the interest in breach of paragraph 11. The Panel found that the member's personal interest was so significant as also to be a 'prejudicial interest'. The Panel, therefore, found that the member also failed to comply with paragraph 14 of the Code, in that he should not have made oral or written representations or attended meetings to discuss the matter on behalf of his constituent.

## The Code of Conduct – for members of local authorities in Wales

### What if I am not aware of my personal interest?

Disclose what you know

3.21 Your obligation to disclose a personal interest to a meeting only applies when you are aware of **or reasonably ought to be aware** of the existence of the personal interest. Clearly, you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

### What to do when you have a personal interest

See paragraph 11

Once disclosed you can stay and participate if your interest is not prejudicial

3.22 When you have a personal interest in any business of your authority, you **must** disclose the existence and nature of the interest before participating (unless it is also a prejudicial interest) in any business to which it relates. How you do this will depend on the circumstances in which the business is being transacted.

3.23 If you are attending a **meeting**,<sup>9</sup> you must disclose the interest orally to that meeting before or at the commencement of the consideration of the relevant business at the meeting, or at the point the interest becomes apparent. If this is the first time you have disclosed the interest during your current term of office, you must confirm it in writing before or immediately after the close of the meeting, in accordance with arrangements set out by your authority's Monitoring Officer. As a minimum, you need to say in writing what the interest is, what business considered by the meeting it relates to and you need to sign it.

<sup>9</sup> The definition of 'meeting' in paragraph 1(1) of the Code is very broad and includes any meeting where members or officers are present, not just formal meetings of the council. For example, it can include an informal meeting of a member and officer.

- 3.24 If you are making **written representations** (including by email, text etc) to a member or officer of your authority regarding any matter in which you have a personal interest, you should include details of the interest in that correspondence.
- 3.25 Similarly, if you are making **oral representations** (whether in person, by telephone or video-conference etc) you should disclose the interest at the commencement of those representations, or when the interest becomes apparent. I would generally expect officers to make a record of any conversation in which a member has disclosed an interest and attach it to the appropriate file. However, it remains your responsibility under the Code (paragraph 11(2)(b)) to confirm the oral representations and details of the personal interest disclosed by you in writing within 14 days.
- 3.26 **Key point:** You must disclose the existence and nature of a personal interest in the way set out above on every occasion before you participate in the business to which it relates, regardless of whether you have previously registered the interest. This ensures that everyone present, including members of the public or other observers are aware of your interest.
- 3.27 If you are making a decision as part of an **executive or board**, you must make sure that the written record of that decision (for example, minutes of a cabinet meeting) includes details of your interest.
- 3.28 If your Monitoring Officer has agreed that the information about your personal interest is **sensitive information**, then you should disclose the existence of a personal interest (but not its nature), and confirm that the Monitoring Officer has agreed that the information about it is sensitive. More information about this is included in the separate section on paragraph 16 of the Code below.
- 3.29 If you declare a personal interest, you can remain in the meeting, speak and vote on the matter, **unless your personal interest is also a prejudicial interest**. What constitutes a prejudicial interest is outlined in the following section.

## The Code of Conduct – for members of local authorities in Wales

### Example 32

A Leader of a County Borough Council was present at, and participated in, an inter-agency meeting arranged to discuss locally controversial proposals to provide residential accommodation for young children, potentially with behavioural difficulties, in a property neighbouring his home. The Leader participated in the meetings despite having received advice, from the Council's Monitoring Officer and Chief Executive, that he had a prejudicial interest and should not do so.

The Adjudication Panel found the Leader had a personal interest (which was not contested) and prejudicial interest in the proposal due to the proximity of the property to, and the potential detrimental impact on the value of, the Leader's home. The Panel found that despite saying he was compromised during the course of the inter-agency meeting, the Leader did not disclose a personal interest at the start of the meeting, in breach of paragraph 11(1) of the Code; and did not withdraw from the meeting, in breach of paragraph 14(1)(a). In playing an active role and making representations at the meeting, the Leader attempted, inappropriately, to influence decisions about the proposal in breach of paragraphs 14(1)(c) and (e). In reaching this conclusion, the Panel commented that a decision about any business of the authority for which a member has a prejudicial interest does not need to be a formal decision of the authority that is subject to a vote or to committee approval or other formal process. There are a range of decisions that can be made about a matter. The Panel found that the comments made by the Leader at the meeting were capable of influencing others and any decision made on the proposal, including by the agency proposing to operate the children's home.

The Panel also found that, as a consequence of his prejudicial interest in the matter, the Leader should not have sent an email to the Director of Social Services about the proposal after the inter-agency meeting, in breach of paragraph 14(1)(d). Nonetheless, in doing so, he failed to disclose his personal interest in that email as required by paragraph 11(2)(a) and sought to influence a matter for which he had a prejudicial interest, in breach of paragraph 14(1)(c).

The Panel found that in involving himself in the way that he did, the Leader could reasonably be regarded as bringing his office and the authority into disrepute, in breach of paragraph 6(1)(a).

### Example 33

I investigated a complaint that a member of a Town Council attempted to use his position to derail a 'Community Hub' project because, within the Hub, there would be a social club serving food and drink and this would affect the member's business – a nearby pub/restaurant. The member had also previously been in a business relationship with one of the parties to the Community Hub project, which had ended acrimoniously. Historic minutes of the Council's meetings showed that the member had disclosed a personal interest in the project and had not attended meetings due this being a prejudicial interest. However, at a later meeting of the Council the member did not disclose the existence and nature of his interest and did not withdraw from consideration of the project when it was discussed. This was despite the Clerk's advice that it was likely he had an interest in the matter under discussion. A Standards Committee found that the member had failed to disclose the existence and nature of a personal interest, in breach of paragraph 11(1) of the Code. The Committee further found that the interest was a prejudicial interest and, as the member had failed to withdraw from the meeting, he had also breached paragraph 14(1).

## Prejudicial Interests

See paragraph 12

### Do I have a prejudicial interest?

Do not be swayed by what you think – consider what a reasonable member of the public would think?

3.30 Your personal interest will also be a prejudicial interest in a matter if a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest and:

- the matter does not fall within one of the exempt categories of business (see below), or
- the exempt categories do not apply because the matter relates to a licensing or regulatory matter (see paragraph 12(3)).



## The Code of Conduct – for members of local authorities in Wales

What is so significant that it is likely to prejudice your judgement?



- 3.31 If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest. This is **an objective test**. You must decide not whether you would take the decision without prejudice, but whether you would be seen as doing so.
- 3.32 You must ask yourself whether **a member of the public**, if he or she knew all the relevant facts, would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.
- 3.33 The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.
- 3.34 Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of any close personal associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.
- 3.35 You would have a prejudicial interest in a planning application proposal if a close personal associate of yours (for example your son or a good friend) lives next to the proposed site. This is because your close personal associate would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or (electoral division affected by the decision (or authority, if your Council does not have wards) and this gives you a personal interest in the issue. The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. **It does not matter whether it actually would or not.**

3.36 In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be influenced by this when voting, whether this is the case or not.

**Does the matter fall within one of the exemptions?**  
See paragraph 12(2)



Are you exempted from having a prejudicial interest?

3.37 You will not have a prejudicial interest if the business falls within one of a number of exemptions which are set out below.

3.38 The business relates to:

- another relevant authority (i.e. a county / county borough council, community council, fire and rescue authority, national park authority or police and crime panel) of which you are also a member
- another public authority or a body exercising functions of a public nature in which you hold a position of general control or management
- a body to which you have been elected, appointed or nominated by your authority
- your role as school governor where you have not been appointed or nominated by your authority (for example, a parent governor) unless the business specifically relates to your school
- your role as a member of a health board where you have not been appointed by your authority
- housing - if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease and you do not have arrears of rent of more than 2 months
- school meals or school transport and travelling expenses, if you are a parent, guardian, grandparent of, or have parental responsibility for, a child in full-time education unless it relates particularly to the school that child attends

## The Code of Conduct – for members of local authorities in Wales

- decisions about statutory sick pay, if you receive or are entitled to receive it from your authority
- an allowance, payment or pension for members. I do not consider a member being put forward for election to a council office which attracts a Special Responsibility Allowance to have a prejudicial interest as I consider them to be covered by this dispensation.

3.39 These exemptions will **not** apply where the business you are considering is about determining an approval, consent, license, permission or regulation (see paragraph 12(3)). I consider these descriptions to refer to a narrow category of decisions, such as granting planning consent and licensing decisions. A wider interpretation of approval, for example, would cover almost every aspect of your authority's business and was clearly not intended.

3.40 If one of the exemptions applies you are **not** regarded as having a prejudicial interest. You still must disclose your personal interest **but you are allowed to participate in the item under discussion.**

### Example 34

Two members of a County Borough Council, who were sisters, were found by the Council's Standards Committee to have failed to declare both personal and prejudicial interests when they decided to allocate funds from their Members' Small Payments Scheme to a company, in respect of which one of the members was a non-paid director. During my investigation, one of the members disputed the fact that she had received advice from the Monitoring Officer about the disclosure of such interests. The other member had, despite receiving advice on the declaration of interests, falsely declared that she had no interest in the company on the nomination form. The Standards Committee considered the breaches of paragraphs 11 (disclosure of interests) and 14 (participation in relation to a disclosed interest) of the Code to be serious ones.

### Example 35

A Standards Committee determined that the circumstances in which a member's membership of a local organisation had ended, resulting in an acrimonious and ongoing dispute between her and the organisation (including solicitors' letters for the recovery of a debt) constituted a close personal association. It found that the nature of this association meant that the member had a prejudicial interest and that she had failed to declare this and withdraw from numerous meetings when a financial donation to the organisation had been discussed.

### Overview and Scrutiny Committees See paragraph 13



You may still be questioned  
on decisions taken

**Please note: this section does not apply to fire and rescue authorities, and national park authorities.**

3.41 You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees
- you were a member of that decision-making body at that time and you were present at the time the decision was made or action taken.

3.42 If the overview and scrutiny committee is checking a decision which you were involved in making, you may be called to attend the meeting to give evidence or answer questions on the matter, and you may do so provided it is acting under its statutory powers.

## The Code of Conduct – for members of local authorities in Wales

### What to do when you have a prejudicial interest

See paragraph 14



- 3.43 If you have a prejudicial interest in any aspect of your authority's business you must not take part in the consideration of that business, or exercise executive or board functions or make representations, except in the circumstances described below.
- 3.44 Nevertheless, even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.
- 3.45 **Key point:** If you have a **prejudicial interest** in a matter being discussed at a meeting, you must, having declared your personal interest in the matter, leave the room, chamber or place where the meeting is being held (including, for example, the location of a site meeting).
- 3.46 **This is unless you have obtained a dispensation from your authority's standards committee, or when members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If the latter is the case, you can also attend the meeting for that purpose, or you may submit written representations to the public meeting in accordance with any procedure adopted by your authority for this purpose. However, where you attend a meeting you must immediately leave the room, chamber or place once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot, for example, remain in the public gallery to observe the discussion or vote on the matter as your very presence could influence the decision, or be perceived by a reasonable member of the public as doing so.
- 3.47 In addition, **you must not seek to influence a decision in which you have a prejudicial interest**. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's

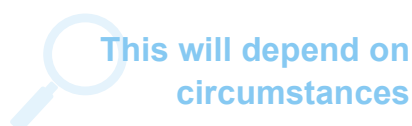
advantage or disadvantage. This means that, as well as leaving meetings where the item is discussed, you must not write or make any oral representations about the matter, except in the circumstances described above relating to representations by the public.

### Example 36

A member of a Community Council who owned a property next to a caravan and camping park attended a meeting of the Council when a planning application by the owner of the park was considered. The member had previously raised concerns with the relevant planning authority about a number of alleged breaches of planning permission by the owner of the park over a number of years. The member declared a personal interest and spoke at the Community Council meeting, setting out the background to the application, details of alleged previous breaches and commenting on the application itself; and voted against the application.

The Adjudication Panel found that the member's interest in the planning application was also a prejudicial interest and she should have withdrawn from the meeting. The close proximity of the member's home to the caravan and camping park, combined with the numerous concerns raised by the member regarding alleged breaches of planning controls, were facts that a member of the public could reasonably regard as so significant that they were likely to prejudice the member's judgement of the public interest. The Adjudication Panel found the member had sought to influence a decision regarding a matter in which she had a prejudicial interest in breach of paragraphs 14(1)(a), (c) and (e).

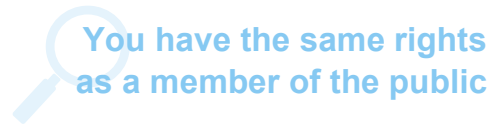
### Do I have a statutory right to speak to the meeting?



3.48 The Code does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code recognises. If so, you will be allowed to exercise that right to speak. Your Monitoring Officer should be able to confirm whether this is relevant to your case

## The Code of Conduct – for members of local authorities in Wales

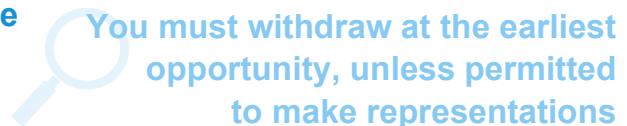
### If I do not have a statutory right, will I be allowed to speak to the meeting?



3.49 The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

3.50 If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. The Code also provides the right to submit written representations to the public meeting in these circumstances. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. You may not, however, take part in the discussion or observe the vote.

### When must I leave the place where the meeting is held?



3.51 You must withdraw from a meeting before, or as soon as it becomes apparent that, business in which you have a prejudicial interest is being considered.

3.52 If you are attending a meeting to make representations in the same way as an ordinary member of the public, you must leave immediately when the time for making representations, giving evidence or answering questions is finished, and before any debate starts.

### What does influencing a decision mean?



3.53 You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak as described above. Your presence itself could be

## The Code of Conduct – for members of local authorities in Wales

perceived to be capable of influencing the decision-making process. You should also take the advice of your Monitoring Officer before asking another member to speak about a matter for which you have a prejudicial interest. Dependent upon the circumstances, this could be viewed as seeking inappropriately to influence a decision in breach of the Code.

### Example 37

A member of a County Borough Council made representations on behalf of, and sought preferential treatment for, a close personal associate who was being threatened with removal as a local authority governor on a school governing body due to improper conduct. In so doing, the member did not avail himself of the normal complaints process, but undertook a course of conduct which involved making allegations against officers of the Council, disclosing confidential information and making a series of representations on behalf of his associate. In addition to breaches of other paragraphs of the Code, the Adjudication Panel found that the member had sought to influence decisions on a matter in which he had a prejudicial interest when he made written and oral representations to officers of the Council, in breach of paragraphs 14(1)(c) and (d).

### What if the public are not allowed to speak to the meeting on the matter?



- 3.54 If an ordinary member of the public is not allowed to speak on the matter, you cannot do so or submit written representations if you have a prejudicial interest. You must leave the place where the debate is being held and not seek to influence the debate in any way.
- 3.55 This may be the case, for example, where your authority is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your authority. Like the public, you are not allowed to participate if you have a prejudicial interest. However, whereas the public may be allowed to sit in the public gallery to observe the meeting, **you must leave the room during the debate and vote.**



## The Code of Conduct – for members of local authorities in Wales

### What if I am summoned to attend a scrutiny committee to discuss business in which I have a prejudicial interest?



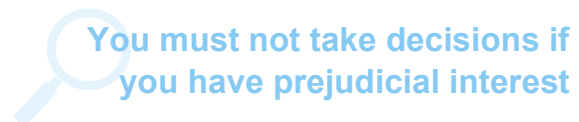
3.56 If you are asked to attend by the committee exercising its statutory powers, then you may attend and participate in the meeting

#### Example 38

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered a planning application for a wind farm on land adjacent to a farm owned by her, the member having entered into a Lease of Rights agreement over her land to facilitate access to the proposed development. The member initially relied on the fact that this agreement contained a confidentiality clause to explain her actions. Nonetheless, the member participated in a secret ballot held in order to decide whether the Community Council would support or oppose the application.

Immediately prior to the hearing before the Adjudication Panel the member accepted that she had a personal interest in the item and later that it was prejudicial in nature. The Adjudication Panel found that the member had failed to comply with paragraphs 11(1) (disclosure of interests) and 14(1) (participation in relation to a disclosed interest) of the Code. It considered that she had allowed her personal interests to prevail and to keep those private conflicted with her duties and responsibilities as an elected member.

### Executive or cabinet roles



**Please note: this section will not apply to fire and rescue authorities or national park authorities, unless in the latter case there are executive arrangements in place.**

3.57 If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests. If your interest is personal but not prejudicial, you can advise the executive on the issue and take part in

## The Code of Conduct – for members of local authorities in Wales

executive discussions and decisions as long as you declare your interest. You can also exercise delegated powers in the matter as long as you record the existence and nature of your personal interest.

3.58 If you are an executive member who can take individual decisions, and you have a prejudicial interest in a decision, your authority may make other arrangements as set out in sections 14-16 of the Local Government Act 2000. This means that the decision can be taken by an officer, another cabinet member, the full executive, or a committee of the executive.

3.59 Although you have a prejudicial interest in a matter, you may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but you are barred from decision-making about that matter individually or in cabinet.

3.60 You also should not participate in any early consideration of it, or exercise any delegated powers in relation to it. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence.

### Dispensations

**If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?**



**You could be granted a dispensation to speak and / or vote on a matter**

3.61 Standards committees have powers under regulations made by the National Assembly for Wales (as it was known at the time) to grant dispensations to members with prejudicial interests, enabling them to speak and / or vote on a matter, in certain circumstances

3.62 You can apply in writing to your authority's Standards Committee for a dispensation to speak and/or vote on a matter on one or more of the following grounds:

- at least 50 per cent of the authority or committee members would be prevented from taking a full part in a meeting because of prejudicial interests

## The Code of Conduct – for members of local authorities in Wales

- at least half of the cabinet would be so prevented (the leader should be included in the cabinet in calculating the proportion)
- in the case of a county/county borough council, the political balance at the meeting would be upset to such an extent that the outcome would be likely to be affected
- the nature of your interest is such that your participation would not harm public confidence
- your interest is common to a significant proportion of the general public
- you have a particular role or expertise which would justify your participation
- the business is being considered by an overview or scrutiny committee and you do not have a pecuniary interest
- the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter
- the Committee believes that your participation would be in the interests of the people in your authority's area
- the Committee considers it otherwise appropriate in all the circumstances. When introducing this last category of dispensation in 2016, the Welsh Government suggested, for example, that where it was not otherwise possible to make reasonable adjustments to accommodate a person's disability, a dispensation under this category may enable the member to remain present in a meeting without participating in the business. This does not though limit the scope of this category of dispensation.

3.63 You can apply for a dispensation individually and, in certain circumstances, you can make joint applications where a number of members want to obtain a dispensation to speak or vote on the same matter. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

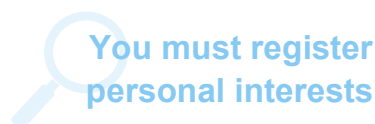
3.64 Only the Standards Committee can grant the dispensation and will do so at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. If failure to grant a dispensation will result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

3.65 Where you hold a dispensation, you can also make written representations but you must provide details of the dispensation in any correspondence. If you make oral representations, whether in person or by phone, you must refer to the dispensation and confirm this in writing within 14 days.

## 4 Registration of Personal Interests

See paragraph 15

Key points



- 4.1 All members of relevant authorities have to provide a record of their personal interests in a public register of interests. If you are a member of a county or county borough council, fire authority or national park authority, you must tell your Monitoring Officer in writing within 28 days of taking office, or within 28 days of any new interest or change to your previously registered interests, of any interests which fall within the categories set out in paragraph 10(2)(a) of the Code, outlined below. The requirement to register such interests “up front” does not apply to a member of a community council. However, they must register such interests if they are required to disclose them when conducting the business of their council.
- 4.2 You must also register any personal interest which you disclose for the first time under paragraph 11 of the Code, for example at a meeting or in written or oral representations, by giving written notice to your authority’s Monitoring Officer. As indicated in the guidance on paragraph 11 of the Code, your authority’s Monitoring Officer will have arrangements in place for this.

## The Code of Conduct – for members of local authorities in Wales

- 4.3 The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.
- 4.4 The register also protects you. You are responsible for deciding whether you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.
- 4.5 The categories of personal interest set out in paragraph 10(2)(a) of the Code that you must register include a description of:
- your job(s) or business(es)
  - the name of your employer or people who have appointed you to work for them
  - the name of any person who has made a payment to you in respect of your election or expenses you have incurred in carrying out your duties
  - the name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company
  - any contracts between the authority and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register
  - any land and property in the authority's area in which you have a beneficial interest (or a licence to occupy for more than 28 days) including, but not limited to, the land and house you live in and any allotments you own or use

## The Code of Conduct – for members of local authorities in Wales

- any other bodies to which you were elected, appointed or nominated by the authority
- your membership or position of control or management in:
  - any bodies exercising functions of a public nature (described above), or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party or trade union
  - any private club, society or association operating within your authority's area

When you are completing your Register of Interests your Monitoring Officer will be able to assist you on how best to describe your interests. The description must be clear enough to maintain openness and public confidence in any business of the Council you may influence or decisions you take on behalf of the Council, whilst also protecting your personal information and safety. For example, when describing property which you own or rent which you live in, the description may include the street name or postcode in which your property is situated (as opposed to your full address).

### Sensitive information

See Paragraph 16

Discuss 'sensitive' information  
with your Monitoring Officer

#### Key points

- 4.6 You may be exempt from having to disclose and register certain information on your authority's register of interests if the Monitoring Officer agrees that it is 'sensitive information'.
- 4.7 'Sensitive information' is information the disclosure of which is likely to create a serious risk of violence or intimidation against you or someone who lives with you, should it become public knowledge. This may include, for example, details of your employment (such as certain scientific research or the Special Forces).
- 4.8 You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. If the Monitoring Officer has agreed your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest, but you will not have to give any details about the nature of that interest.

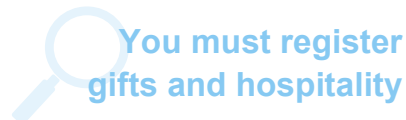
## The Code of Conduct – for members of local authorities in Wales

- 4.9 If, following a change of circumstances, the information excluded from the register of interests ceases to be sensitive information, you must notify your Monitoring Officer within 28 days asking them to include the information in the register.

### Gifts and hospitality

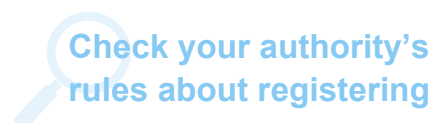
See Paragraph 17

#### Key points



- 4.10 You must register any gifts or hospitality worth more than the amount specified by your authority that you receive in connection with your official duties as a member, and the source of the gift or hospitality, within 28 days.
- 4.11 You must register the gift or hospitality and its source within 28 days of receiving it. Like other interests in your register of interests, you may have a **personal interest** in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a prejudicial interest. It is also good practice to provide a note of any offers of gifts or hospitality which you have declined and this may be a requirement of your authority's gifts and hospitality policy.

#### Is the gift or hospitality connected to my official duties as a member?



- 4.12 You should ask yourself, "would I have been given this if I was not a member of the authority?" If you are in doubt as to the motive behind a gift or hospitality, I recommend that you register it or speak to your Monitoring Officer.
- 4.13 You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept (unless required to do so by your authority). However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position as a member, or if your authority requires you to do so.

### What if I do not know the value of a gift or hospitality?



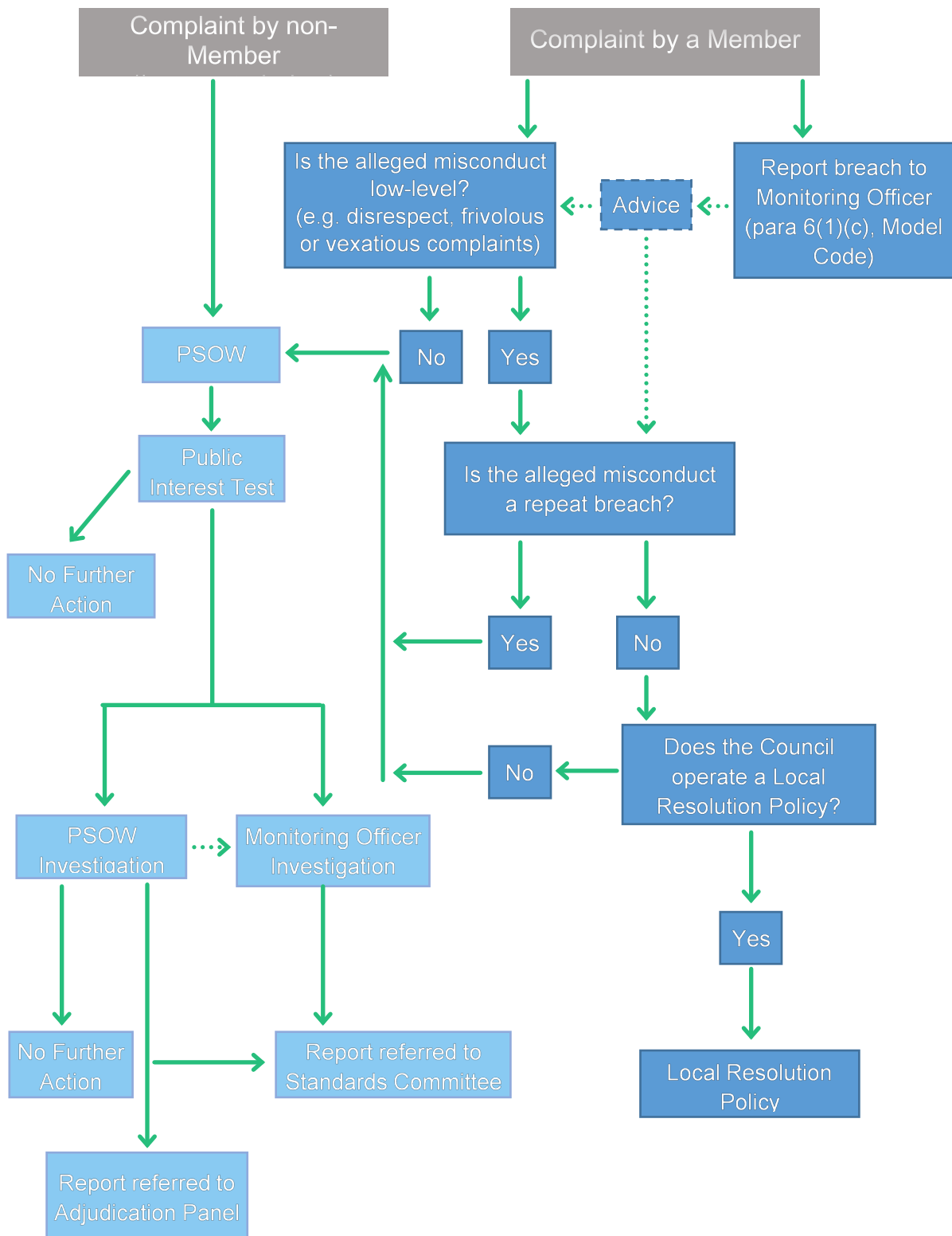
- 4.14 The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your authority or over should be registered.
- 4.15 The Code also refers to material benefit or advantage. The measure of this would be if an informed independent observer could conclude that you might be perceived to be better off as a consequence.



# The Code of Conduct – for members of local authorities in Wales

## Appendix 1

### Code of Conduct Complaints Overview



\* Note: an officer considering a complaint should take advice from the Council's Monitoring Officer / Clerk about the relevance of the Council's member / officer relations policy, or local resolution policy, before exercising their right to complain to the Public Services Ombudsman for Wales.

# The Code of Conduct – for members of local authorities in Wales

## Appendix 2

### Personal Interests

**Questions to ask yourself. If in doubt you should ask your Monitoring Officer.**

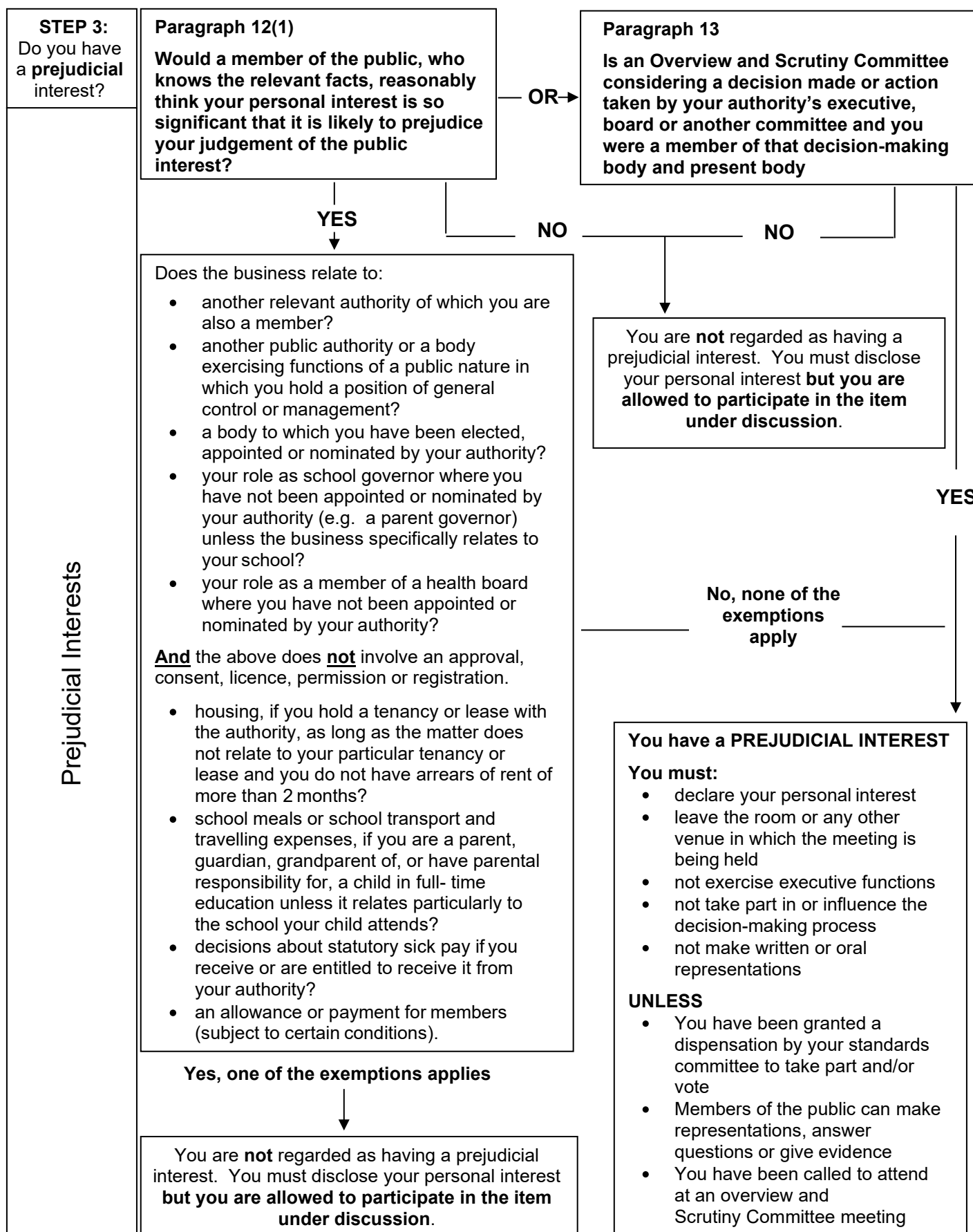
<b>STEP 1</b>	<b>Does the Code apply?</b> <b>Are you:</b> <ul style="list-style-type: none"> <li>conducting the business of your authority?</li> <li>acting, claiming to or giving the impression that you are acting, in your official capacity as a member or representative of your authority?</li> <li>acting as your authority's appointee or nominee on any other body without its own code of conduct?</li> </ul>		
<b>STEP 2</b>	<b>The Code <b>does</b> apply.</b> Continue to Step 2.	<b>The Code <b>does not</b> apply.</b> No further action required.	
<b>Do you have a personal interest?</b>	← YES NO →		
<b>Personal Interests</b>	<b>Paragraph 10(2)(a)</b> <b>Does the business relate to or is it likely to affect:</b> <ol style="list-style-type: none"> <li>1. your employment or business?</li> <li>2. your employer, firm or company?</li> <li>3. any person, other than your authority, who has paid towards your election or expenses as a member?</li> <li>4. any company in which you hold shares with the nominal value of more than £25000 or where your holding is more than 1% of the total share capital, which has premises or land in your authority's area?</li> <li>5. any contract that your authority makes with your company or a company in which you hold shares? (as described in 4)</li> <li>6. any land in which you have an interest?</li> <li>7. any land let by your authority to your company? (as described in 4)</li> <li>8. any body to which you have been elected or appointed by your authority?</li> <li>9. any:           <ul style="list-style-type: none"> <li>public authority or body exercising functions of a public nature?</li> <li>company, industrial and provident society, charity or body directed to charitable purposes?</li> <li>body whose main role is influencing public opinion or policy?</li> <li>trade union or professional association?</li> <li>private club, society or association operating in your authority's area in which you have membership or are in a position of general control or management? or</li> </ul> </li> <li>10. any land in your authority's area which you have a license to occupy for at least 28 days?</li> </ol>	<b>Paragraph 10(2)(c)</b> <b>Might a decision be reasonably regarded as affecting (to a greater extent than other people in your ward/authority's area):</b> <ul style="list-style-type: none"> <li>your well-being or financial position?</li> <li>the well-being or financial position of any person who lives with you or with whom you have a close personal association?</li> <li>the employment/ business, employer, or company of any person who lives with you or with whom you have a close personal association?</li> <li>any company in which any person who lives with you or with whom you have a close personal association owns shares?</li> <li>any public authority; company; charity; lobby group; trade union or professional association; or private club, society or association operating in your authority's area; in which any person who lives with you or with whom you have a close personal association holds a position of general control or management.</li> </ul>	
	<b>OR</b>	← →	
	<b>If YES, you have a <b>PERSONAL INTEREST</b></b>	<b>If NO, you do not have a personal interest</b>	
<b>You must:</b> <ul style="list-style-type: none"> <li>○ declare your interest and the nature of that interest:</li> <li>○ at meetings</li> <li>○ when making written representations</li> <li>○ when making oral representations (and confirm it in writing within 14 days)</li> <li>○ consider if you have a prejudicial interest (see Appendix 3)</li> </ul>	<ul style="list-style-type: none"> <li>If the business is before an Overview or Scrutiny Committee consider if you have a prejudicial interest</li> <li>Otherwise, <b>no further action is required</b></li> </ul>		

# The Code of Conduct – for members of local authorities in Wales

## Appendix 3

### Prejudicial Interests

Questions to ask yourself. If in doubt you should ask your Monitoring Officer.



## Contact us

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ

Tel: 0300 790 0203  
Fax: 01656 641199  
Email: [ask@ombudsman.wales](mailto:ask@ombudsman.wales)  
Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman.wales](http://www.ombudsman.wales)

## AGENDA ITEM NO 14

**FORWARD WORK PROGRAMME FOR  
STANDARDS COMMITTEE 2022/23**

<b>Expected Date of Report</b>	<b>Report Name</b>	<b>Purpose of Piece of Work</b>	<b>Information or Decision</b>	<b>Lead Director/ Contact Officer</b>	<b>Progress</b>
03 Oct 2022	Member Training Delivered by Dave Daycock	Catch up Member Standards Training for those unable to attend the April Training Session	I	T/D CS Contact Officer: Geraint Thomas	Completed
03 Oct 2022	Review Terms of Reference of the Standards Committee	Members to review current Terms of Reference and agree or suggest amendments for approval	D	T/D CS Contact Officer: Geraint Thomas	Completed
03 Oct 2022	Schedule of Observation Visits by Independent Members of Standards Committee to SWFRA Committees	To agree dates for Independent Members to observe FA Meetings	D	T/D CS Contact Officer: Geraint Thomas	Completed
03 Oct 2022	Public Service Ombudsman for Wales - Code of Conduct Casebook	To review the latest PSOW Casebook publications	I	T/D CS Contact Officer: Sarah Watkins	Completed
03 Oct 2022	Update regarding the All Wales Standards Forum	Update Members on progress	I	T/D CS Contact Officer: Geraint Thomas	Completed

<b>Expected Date of Report</b>	<b>Report Name</b>	<b>Purpose of Piece of Work</b>	<b>Information or Decision</b>	<b>Lead Director/ Contact Officer</b>	<b>Progress</b>
03 Oct 2022	Outcome report following the Consultation on Welsh Government's Standards of Conduct Statutory Guidance	Update Members on progress	I	T/D CS Contact Officer: Geraint Thomas	Completed
30 Jan 2023	Public Service Ombudsman for Wales - Code of Conduct Casebook	To review the latest PSOW Casebook publications	I	ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Feedback report following Observations Visits by Independent Members of Standards Committee to SWFRA Committees	Members to share observations	I	ACO CS Contact Officer: Geraint Thomas	On agenda
30 Jan 2023	Standards Conference Wales 2023	Update Members.	I	ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Adjudication Panel for Wales – Annual Report 2021/22	Provide an overview of the APW Report 2021/22		ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Independent Remuneration Panel for Wales' Draft Annual Report - February 2023	Provide an overview of the IRPW Report	I	ACO CS Contact Officer: Geraint Thomas	On agenda

<b>Expected Date of Report</b>	<b>Report Name</b>	<b>Purpose of Piece of Work</b>	<b>Information or Decision</b>	<b>Lead Director/ Contact Officer</b>	<b>Progress</b>
30 Jan 2023	Public Services Ombudsman for Wales – Annual Report and Accounts 2021/22	Provide an overview of the PSOW Annual Report	I	ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Public Service Ombudsman for Wales – Updated Guidance on the Code of Conduct	Provide an overview of updated guidance to Members	I	ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Draft Standards Committee Annual Report	For Members to review and agree the draft annual report of the Standards Committee	D	ACO CS Contact Officer: Sarah Watkins	On agenda
30 Jan 2023	Appointment of Vice Chair of the Standards Committee	To appoint the Vice Chair of the Committee	D	ACO CS Contact Officer: Geraint Thomas	On agenda

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AGENDA ITEM NO 15

**To consider any items of business that the Chairperson deems urgent  
(Part 1 or 2)**

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1.	Apologies for Absence	
2.	Declarations of Interest	
	Members of the Fire & Rescue Authority are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct.	
3.	Chairperson's Announcements	
4.	To receive the minutes of:	
	<ul style="list-style-type: none"> <li>• Standards Committee held on Monday 3 October 2022</li> </ul>	5
	<b>REPORTS FOR DECISION</b>	
5.	Appointment of Vice Chair of the Standards Committee – <b>to be presented verbally on the day</b>	11
6.	Draft Standards Committee Annual Report	13
	<b>REPORTS FOR INFORMATION</b>	
7.	Public Service Ombudsman for Wales' – Code of Conduct Casebook	25
8.	Feedback report following observation visits by Independent Members of Standards Committee to SWFRA Committees – <b>to be presented verbally on the day</b>	39
9.	Standards Conference Wales 2023 – <b>to be presented verbally on the day</b>	47
10.	Adjudication Panel for Wales – Annual Report 2021/22	49
11.	Independent Remuneration Panel for Wales' Draft Annual Report 2023-2024	71

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12.	Public Service Ombudsman for Wales – Annual Report and Accounts 2021/22	99
13.	Public Service Ombudsman for Wales – Updated Guidance on the Code of Conduct	295
14.	Forward Work Programme for Standards Committee 2022/2023	381
15.	To consider any items of business that the Chairperson deems urgent	385