

# Cyngor Sir Ynys Môn / Isle of Anglesey

<b>Committee</b>	<b>Standards Committee</b>
<b>Date of Meeting</b>	<b>31 October 2012</b>
<b>Title of Report</b>	<b>Findings of the Adjudication Panel for Wales 1<sup>st</sup> April 2011 to 30<sup>th</sup> September 2012.</b>
<b>Report By</b>	<b>Customer Care Officer</b>
<b>Purpose of Report</b>	<b>To provide information on the issues dealt with by the Adjudication Panel for Wales</b>

## 1.0 Introduction & Background

The Adjudication Panel for Wales came into being as a result of the Local Government Act 2000 and has two statutory functions:-

- To form case or interim case tribunals to consider reports from the Ombudsman 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

This report covers decisions made by the Adjudication Panel between the 1<sup>st</sup> of April 2011 and the 30<sup>th</sup> September, 2012 and is intended as a factual summary of the issues that come before the Adjudication Panel. It will not replace the report that is presented to the Committee when a complaint relating to Anglesey County Council has been before the Adjudication Panel.

## 2.0 Decisions made between 1.4.11 and the date of this report

- 18.4.11 - Cllr. A James, Torfaen County Borough Council
- 18.5.11 - Cllr. M. Calver, Manorbier Community Council
- 06.06.11 - Cllr A. Brown, Merthyr Tydfil County Borough Council
- 29.06.11 – Cllr. J. Adams-Lewis, Ceredigion County Council
- 12.07.11 – Cllr P Rogers, North Wales Police and Anglesey County Council
- 27.10.11 – Former Cllr F. Wildgust – Torfaen County Borough Council
- 27.10.11 - Cllr P Seabourne – Torfaen County Borough Council
- 27.10.11 - Cllr D Thomas, City & County of Swansea
- 14.11.11 – Former Cllr L. Bailey – City & County of Swansea
- 14.11.11 – Cllr I. Tuck, Merthyr Tydfil County Borough Council
- 03.01.12 - Cllr. K. Armstong-Braun, Saltney Town Council
- 18.6.12 – Cllr. M. Eckersley, Denbighshire County Council – **Updated**
- 19.6.12 – Cllr B. Durkin, Anglesey County Council - **Updated**
- 22.8.12 – Cllr. A. Brown, Merthyr Tydfil County Borough Council - **New**

See Table below which provides a summary of the issues dealt with and the results of the above cases.

Name	Allegations	Findings	Result
<p>Cllr. A. James – Torfaen County Borough Council (27.4.11)</p> <p>APW/007/2010-011/CT</p>	<p>Failing to declare an interest and using his position improperly when making donations to local organizations under the Council’s Small Schemes Allowances</p>	<p>On the basis of the findings of fact, the Case Tribunal found by unanimous decision that there was a failure to comply with the Torfaen County Borough Council’s code of conduct.</p>	<p>Breach - The Case Tribunal concluded by unanimous decision that a period of suspension is appropriate -</p> <p>Suspended for 1 month</p>
<p>Cllr. M. Calver of Manorbier Community Council (25.5.11) <b>Appeal</b></p> <p>APW/009/2010-011/A</p>	<p>Appeal against Pembrokeshire County Council’s Standards Committee, that he breached Manorbier Community Council’s Code of Conduct and should be censured and undertake training on the Code.</p> <p>Original allegations:- Publishing draft minutes without permission Website comments constituted bullying and harassments and /or failed to show respect and consideration Disclosure of confidential (including financial) information not yet in the public domain Made comments which</p>	<p>The Adjudication Panel upheld the decision of the Standards Committee - that he breached Manorbier Community Council’s Code of Conduct</p>	<p>The Appeal Tribunal considered all of the facts, submissions and representations made and its own sanction guidelines in appeal tribunals. The Appeal Tribunal saw no compelling reason here to interfere with the sanction imposed by the Standards Committee</p> <p>NOTE – the Appeal Tribunal and Standards Committee decisions were overturned following a Judicial Review by the High Court - Ref:[2012] EWHC 1172</p>

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	brought his office and/or council into disrepute.		
<p>Cllr. A. Brown of Merthyr Tydfil County Borough Council</p> <p>APW/006/2010-011/CT And APW/010/2010-011/CT</p>	<p>Using the internet to publish inappropriate comments Misusing Council resources Breaking the Council's Internet Policies Failing to show respect and consideration for others Disclosing a confidential letter Sending inappropriate e-mails Publishing a deliberately misleading press release and thereby bringing the office of councillor and his authority into disrepute</p>	<p>The Case Tribunal did not consider, in all the circumstances, that there were, in accordance with its sanction guidelines, factors which could reasonably justify a disqualification. The Case Tribunal considered whether suspension would be an appropriate sanction, with reference to its sanction guidelines which indicate that a suspension may be appropriate where the circumstances are not so serious as to merit disqualification, but sufficiently grave to give rise to the need to reassure the public and impress upon the Respondent the severity of the matter and the need to avoid repetition.</p>	<p>Breach: The Case Tribunal decided by unanimous decision that the Councillor should be suspended from acting as a member of the Council for a period of nine months</p>
<p>Cllr. J. Adams- Lewis of Ceredigion County Council</p>	<p>Failing to act objectively and in the public interest in the consideration of a planning application at a site meeting of</p>	<p>The Case Tribunal found that the Councillor did act in a way, such that a member of the public might</p>	<p>Breach: Suspended from being a member of the Development Control Committee and Vice Chairman of</p>

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APW/007/2009-010/CT	the Council's Development Control Committee on 28/8 and 10/9 2008 and by failing to declare a personal interest and to withdraw at these meetings	reasonably perceive a conflict between his role as a local Councillor and his role in taking a decision on behalf of the Authority	the Council for a period of 3 months
<p>Cllr. P. S. Rogers of Anglesey County Council / North Wales Police Authority</p> <p>APW/011/2010-011/CT</p>	<p><b>NWP Authority</b> - Attempting to engage in conversation in connection with a complaint against his constituent  Sending an email criticising the way the police were dealing with an investigation  Displaying overbearing and intimidating behaviour towards three police officers during his visit to Holyhead Police Station and attempting to influence the course of a police investigation.</p> <p><b>IAOCC</b> -  Failing to show respect and consideration for others and bullying and harassing behaviour  Disclosing confidential information about the health of a fellow councillor  Conduct could be reasonably regarded as bringing his office or authority into disrepute.</p>	<p>Not satisfied that the NWPA code was engaged – Cllr Rogers never gave the impression that he was acting as a representative of the NWPA.</p> <p>Failing to show respect &amp; consideration - Breach  Bullying and Harassment – No breach</p> <p>No breach</p> <p>Breach</p>	<p>Breach and the Tribunal concluded that the appropriate sanction was one of censure.</p>

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<p>Former Cllr. F. Wildgust of Torfaen County Borough Council</p> <p>APW/001/2011-012/CT</p>	<p>Making unsubstantiated allegations in press releases dated 13.15 and 22 January 2011 about the Council and its senior officers and by repeating those allegations in an e-mail to the Council's Chief Executive and showing utter disrespect to the Monitoring Officer and Chief Executive personally and to their senior officers.</p> <p>.</p>	<p>2<sup>nd</sup> Case Tribunal – 1<sup>st</sup> held on 24.2.11</p> <p>the Case Tribunal gave very serious consideration to imposing a disqualification and but for Cllr Wildgust's apology to those concerned, his acknowledgement of his now understanding of the importance of the Code of Conduct and to his having to adhere to it, his undertaking [to the Case Tribunal] to do so and to moderate his behaviour and act in a non-adversarial fashion in the future, the Case Tribunal would have disqualified him from office. However, in reliance on the undertaking and so as to give Cllr Wildgust the opportunity of moderating his behaviour, the Case Tribunal decided to suspend Cllr Wildgust for a period of 12 months with immediate effect".</p>	<p>The First Case Tribunal decision was clear that but for Mr Wildgust's undertakings to comply with the terms of the Code of Conduct, to moderate his behaviour, to apologise and to act in a non-adversarial way in the future, they would have sanctioned a disqualification against him.</p> <p>Mr Wildgust disregarded those undertakings the day following the First Case Tribunal hearing.</p> <p>The Case Tribunal considers that Mr Wildgust's conduct merits a disqualification and that he should be disqualified from holding the office of councillor for a period of 3 years with immediate effect.</p>
<p>Cllr. P. Seabourne of Torfaen County Borough Council</p>	<p>Appeal against the decision of the Standards Committee</p>	<p>Following the decision by the Ethics and Standards Committee, the</p>	<p>The Tribunal was satisfied, on the basis of the evidence given by Cllr. Seabourne that he had not</p>

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<p><b>Appeal</b></p> <p>APW/012/2010-011/A</p>	<p>Failed to maintain accurate records of his appointments and interests in the statutory register.</p> <p>Failed to declare a personal and prejudicial interest on 27 November 2008 when completing a Small Scheme Application requesting that a payment of £200 be made to Torfaen Access Coalition when he was Chair of the Coalition.</p> <p>Failed to declare a personal interest on 22 September 2009 when completing a Small Scheme Application requesting that a payment of £500 be made to Fairwater Comprehensive School when he was an LEA appointed governor of the School</p> <p>Further in respect of the donation to Fairwater Comprehensive School, failed to declare a personal and prejudicial interest in that his wife was the Chair of governors at the School at the time of the donation.</p>	<p>Ombudsman received a further complaint that Cllr Seabourne had misled that Committee when he stated that the information about his interests was on his website. This was not in fact the case at the time of the Committee hearing as that information was not placed on the website until 14 October 2009.</p> <p>The Appeal was confined to the sanction imposed and not the findings.</p>	<p>misled the committee and had not, either in correspondence or otherwise, suggested that the information regarding his interests was on his website prior to 14 October 2009. On that basis the Tribunal was satisfied that there was no additional aggravating factor to weigh into the balance.</p> <p>The Tribunal accepted that Cllr Seabourne had updated his Declaration of Interests on 14 October 2009 and that this did alter the balance of aggravating and mitigating factors considered by the Ethics and Standards Committee. This was not so substantial an alteration, however, as to lessen the seriousness of the breaches of the Code and, therefore, the need for censure. Decision of the Ethics and Standards Committee upheld – The Tribunal was satisfied in all the circumstances</p>

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			that a censure was an appropriate sanction
<p>Cllr. D. Thomas of City &amp; County of Swansea Council <b>Appeal</b></p> <p>APW/002/2007-08/A</p>	<p>Appeal against the decision of the Standards Committee</p> <p>Failing to reach a decision on the basis of the merits of the circumstances involved when attending a meeting of the Planning Committee on 20 July 2006 and, in so doing, had also failed to have regard to the advice of the authority's Monitoring Officer.</p>	<p>Appeal Tribunal unanimous in their decision that there was a failure to comply with the Code of Conduct.</p> <p>“Having regard” to advice taken to mean accepting such advice in the absence of good reasons not to – no such reasons given</p>	<p>Decision of Standards Committee upheld.</p> <p>Censure and suspension for 1 month.</p>
<p>Former Cllr. L. Bailey of City &amp; County of Swansea Council</p> <p>APW/001/2007-08/CT</p>	<p>Making improper use of Council-owned computer equipment for private purposes by downloading inappropriate images and sending letters to a local newspaper, which he falsely represented as being from members of the public. In so doing brought the office of member into disrepute.</p> <p>Failed to show respect and consideration for others by failing to take account of the impact of his actions on</p>	<p>Tribunal felt that the breaches were so serious that disqualification was appropriate and that a period in excess of 3 years would be justified</p>	<p>Breach.</p> <p>Disqualification for 2 years and 6 months – reduced length of disqualification due to mitigating factors</p>

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	<p>council employees who later saw the images on the computer equipment.</p> <p>Pattern of persistent misconduct demonstrated a failure to promote the principles of the code by leadership and example</p>		
<p>Cllr. I. Tuck of Merthyr Tydfil County Borough Council</p> <p>APW/004/2007-08/CT</p>	<p>Behaviour at a fact-finding site visit by the Council's Planning and Regulatory Committee on 11 October 2006 could be reasonably regarded as bringing the office of member and the Council into disrepute. Using his position as a member of the Planning and Regulatory Committee improperly to secure an advantage for himself and his father at the meeting on 11 October 2006 meeting. At the meeting did not adequately declare a personal interest and did not withdraw.</p>	<p>Finding that there was a failure to comply with the Code of Conduct on all 3 counts.</p> <p>Councillor had resigned and had no desire to stand for public office again.</p>	<p>Breach.</p> <p>Disqualified for 12 months</p>
<p>Cllr. K. Armstrong-Braun Saltney Town Council</p> <p>APW/008/2010-11/CT</p>	<p>Breach of paras 4(b), 5(a), 6(1)(a) and 8(a) of the code of conduct :-</p> <p>That he acted inappropriately</p>	<p>The Case Tribunal found</p>	<p>Breach.</p> <p>Suspended for 12 months</p>



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	<p>during Council meetings; caused distress to another person;</p> <p>failed to account for his mayoral allowance</p>	<p>that Cllr Armstrong-Braun, when Mayor, had made inappropriate remarks about Saltney and had subsequently refused to withdraw his remarks; he adjourned the council meeting on 9 July 2008 contrary to the decision of the Town Council; he decided to prematurely close the meeting on 10 September 2008; he was abusive and discourteous to the Town Clerk and Deputy Mayor at the agenda meeting held on 9 September 2008;</p> <p>The Case Tribunal found that Cllr Armstrong-Braun ignored the advice of the Town Clerk concerning his obligation to account for his Mayoral allowance in accordance with Standing Order 40 of the Council's procedure rules as set out in the letter dated 20 November 2009 from the</p>	

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	disclosed confidential information and that in respect of both Saltney Town Council and Flintshire County Council his conduct had brought his office and the authorities into disrepute.	Town Clerk to him. The Case Tribunal found that Cllr Armstrong-Braun had written a letter to the Head Teacher of the local Secondary School in breach of the decision of the Town Council's task group that their meetings on 14 and 28 March 2009 were to be held in confidential session and that any matters shared in those meetings should not be shared with third parties.	
Former Cllr. M. Eckersley Denbighshire County Council  APW/004/2011-012/CT	Breach of paras 4(a), 4(b) and 6(1)(a) of the Code of Conduct  that at a meeting of the Corporate Equalities Group on 22 July 2010, during a discussion about an ancient bye-law which allows individuals to be hanged for speaking Welsh in Chester after 9.00pm, former Cllr Eckersley commented "maybe we should take a load of Welsh Muslims to Chester to test this out" ("the first alleged failure");	The Case Tribunal found by unanimous decision with regard to both allegations that former Cllr Eckersley failed to comply with the Denbighshire County Council's Code of Conduct as follows:  Paragraph 4(b) of the Code of Conduct states that "you must show respect and consideration for others".	The Case Tribunal considers that former Cllr Eckersley's conduct merits a censure.

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	<p>and</p> <p>that at a meeting of the Corporate Equalities Group on 14 October 2010 former Cllr Eckersley commented that “Adolf Hitler had the right idea, and that they should be got rid of out of the country” with reference to gypsies and travellers (“the second alleged failure”).</p>	<p>The Case Tribunal further finds by unanimous decision that former Cllr Eckersley did not breach paragraphs 4(a) and 6(1)(b) of Denbighshire County Council’s Code of Conduct.</p>	
<p>Cllr. B. Durkin Anglesey County Council  APW/002/2011-012/CT</p>	<p>making repeated personal attacks of an offensive nature against the then Director of Legal and Democratic Services and Monitoring Officer (Miss Ball) and Mr David Bowles, the former Interim Managing Director; and</p> <p>by making numerous requests for information thereby placing excessive demands and significant burden upon the</p>	<p>The Tribunal found that Cllr Durkin by his actions towards the Miss Ball, in particular the language he used, failed to show respect and consideration and that his actions in relation to Miss Ball also amounted to bullying and harassment. The Tribunal concluded that making repeated serious allegations with no foundation against Miss Ball and suggesting that she was dishonest and corrupt</p>	<p>The Case Tribunal concluded by unanimous decision that Cllr Durkin should be suspended from acting as a member of the Isle of Anglesey County Council for a period of 12 months or, if shorter, the remainder of his term of office, with effect from 17 May 2012.</p>

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	Council's Corporate Information Officer (Mr Pritchard)	<p>undermined her authority and position and amounted to bullying and harassment.</p> <p>The Tribunal found that as a more senior officer the actions of Cllr Durkin did not amount to bullying or harassment of Mr Bowles and that Mr Bowles had robustly dealt with Cllr Durkin. The Tribunal did however find that making unfounded allegations in the public media that Mr Bowles was dishonest and corrupt did fail to show Mr Bowles respect and consideration in breach of paragraph 4(b) of the Code.</p> <p>The Tribunal found no breach in relation to his conduct towards Mr Pritchard. The Tribunal did not accept that the Code was not engaged in relation to Mr Pritchard and noted that although the Freedom of Information Act treated everyone as members of the</p>	

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		<p>public from the point of view of the Act, Cllr Durkin was making the requests in his capacity as a councillor and for political purposes. However, when considering the evidence the Tribunal was satisfied that Cllr Durkin had made his requests perfectly properly and his letters to Mr Pritchard were appropriate in content and tone.</p> <p>The Tribunal found that Cllr Durkin's actions also amounted to a breach of paragraph 6(1)(a) of the Code. The Tribunal concluded that Cllr Durkin's repeated unfounded allegations of a serious nature against senior officers of the Council in public was bound to undermine the authority and bring it into disrepute. In addition the language used by Cllr Durkin and the fact that the Tribunal found his</p>	

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		<p>motives were not genuine, further brought the office into disrepute.</p>	
<p>Former Cllr. A. Brown Merthyr Tydfil County Borough Council</p> <p>APW/002/2012-013/CT</p>	<p>Persistently and deliberately misrepresented his position as a councillor following his suspension by a previous Tribunal, in emails, blogs, letters and articles to the press and a radio phone-in in a 3 month period following the Tribunal finding;</p> <p>Deliberately and persistently misrepresented the findings of the previous Tribunal;</p> <p>Misrepresented the Council and its policies; and</p> <p>Despite the finding of the Tribunal on 13 April 2011, he had knowingly published confidential information and failed to</p>	<p>The Case Tribunal considered all the facts of the case. It had regard to its sanctions guidance which indicates that a disqualification may be appropriate in circumstances where had a person still been a member of their authority a suspension would have been the likely sanction. However, in this case disqualification was considered because former Cllr Brown had deliberately failed to abide by the code and had persistently breached the Code. There were a number of aggravating factors:</p> <ul style="list-style-type: none"> <li>a) Repeated breaches</li> <li>b) Actions brought the Council into disrepute</li> </ul>	<p>The Case Tribunal concluded by unanimous decision that former Cllr Brown should be disqualified for 3 years from being or becoming a member of Merthyr Tydfil County Borough Council or of any other relevant authority within the meaning of the Local Government Act 2000, with immediate effect.</p>

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	seek advice from the appropriate authorities.	<ul style="list-style-type: none"> <li>c) Intentionality</li> <li>d) Challenging the investigation and adjudication to the end</li> <li>e) Seeking unfairly to blame others</li> <li>f) Persisting with a pattern of behaviour</li> <li>g) Failing to heed appropriate advice or warnings</li> </ul>	