

<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>COMMITTEE:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>11 March 2020</b>
<b>REPORT TITLE:</b>	<b>Practice Direction issued by the Adjudication Panel for Wales</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To provide information about the Practice Direction published by the Adjudication Panel for Wales dated 1<sup>st</sup> January 2020</b>
<b>REPORT BY:</b>	<b>Mared Wyn Yaxley Solicitor – Corporate Governance <a href="mailto:mwy@ynysmon.gov.uk">mwy@ynysmon.gov.uk</a></b>
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## 1. INTRODUCTION AND BACKGROUND

- 1.1 The President of the Adjudication Panel for Wales (APW) has issued a Practice Direction in relation to the processes governing the procedures of the APW. A copy is enclosed at **Enclosure 1**. A further copy can be seen on the APW's website via this link - <https://adjudicationpanel.gov.wales/practice-direction>
- 1.2 Following an investigation by the Public Services Ombudsman for Wales (PSOW), one of the options available to the PSOW is to refer the matter to the APW. When the APW receives a reference from the PSOW, a case tribunal will be convened.
- 1.3 The procedure for the tribunal is included in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 ('the Regulations'). The Schedule to the Regulations sets out the procedure which must be followed and Paragraph 3 of the Schedule explains the process for the written reply of the "accused person".
- 1.4 The Practice Direction is issued so as to clarify the process of the tribunal in relation to the written acknowledgment reply an "accused person" (the individual alleged to have breached the Code of Conduct) must deliver to the Registrar of the APW.

## 2. THE PRACTICE DIRECTION

- 2.1 The Practice Direction seeks to provide information to assist “accused persons” in fully completing the response (required under paragraph 3 of the Schedule in the Regulations) and to explain the consequential process should the same not be followed.
- 2.2 The Regulations detail that a response shall be sent by the “accused person” within 21 days of the receipt of the notice. It is clear that, following the publication of this Practice Direction, “the tribunal will not direct that a second or further opportunity is given to provide a full response, unless it believes that it is in the interests of justice to do so”.
- 2.3 The Regulations detail that a tribunal may extend the time for a member to file a full response to a later date as determined by the tribunal. It is clear that, following the publication of this Practice Direction, “applications for extensions of time must be made within the initial 21 day response window (unless this is not possible for good reason) and must be supported by evidence explaining why the extension is required and would be in the interests of justice”.
- 2.4 The effect of the Practice Direction:
- 2.4.1 It clarifies the process for “accused persons” and the answers s/he must provide in the response to the tribunal
  - 2.4.2 Improves case management of the case by the tribunal
  - 2.4.3 Could lead to fewer delays in waiting for “accused persons” to provide a “full response”

## 3. RECOMMENDATION

- 3.1 For the Standards Committee to
- 3.1.1 Note the contents of the Practice Direction at **Enclosure 1**; and
  - 3.1.2 Confirm that the contents of the Practice Direction at **Enclosure 1** be brought to the attention of elected and co-opted members of this Council and the members in the town and community councils.

**Adjudication Panel for Wales: Practice Direction 1**

**Response to a reference from the Public Services Ombudsman for Wales**  
**(“PSOW”)**

1. The President of the Adjudication Panel for Wales (‘the Panel’) makes this direction under section 61(2) of the Wales Act 2017. It has been approved by the Welsh Ministers under section 61(4) of the same Act, following consultation with the President of the Welsh Tribunals under section 61(8).

**Response to a reference from the PSOW**

2. Following a reference to the President of the Adjudication Panel for Wales by the PSOW under section 71(3) of the Local Government Act 2000, a case tribunal (“the tribunal”) will be convened (either a full case tribunal or an interim case tribunal depending on the terms of the reference). The regulations governing the procedures of the tribunal are set out in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended) (“the Regulations”). The Regulations refer to “the accused person”; for the avoidance of doubt, this refers to a member of a relevant authority who is the subject of a reference to the President by the PSOW and in this Practice Direction such a person is referred to as “a member”.
3. The Schedule to the Regulations (“the Paragraphs”) sets out in detail the procedures to be followed.

Paragraph 3 states:

*“(1) An accused person must deliver to the registrar a written reply acknowledging receipt of the notice and stating—*

*(a) whether or not that person intends*

*(i) to attend or be represented at the hearing, or*

*(ii) to dispute the contents of the report and, if so, on what grounds;*

*(b) the name and address and the profession of any person who is to represent him or her and whether such address is to be his or her address for service for the purposes of the adjudication; and*

*(c) whether that person wishes the hearing to be conducted in English or Welsh.*

*(2) Such reply shall be signed either by the accused person or by his or her nominated representative and shall be delivered to the address for the tribunal specified in the notice given under paragraph 2(c) above not later than 21 days after the date on which the notice was received or by such later date as the tribunal may allow.*

*(3) If no reply is received by the registrar within the specified time or any extension of time allowed by the tribunal, or if the accused person states in his*

*or her reply that he or she does not intend either to attend or be represented at the hearing or to dispute the contents of the report, the tribunal may determine the adjudication without a hearing.”*

4. In order to comply with the obligation imposed upon her/him by paragraphs 3(1) and (2) of the Schedule as set out above, a member must complete in full the response form provided by the Panel and return it to the Panel, or provide a written reply containing all the information required by Paragraph 3(1) and (2), within 21 days of receipt of the notice of the reference from the Registrar. Statements such as “*to be confirmed*” or “*to be provided*” are not a full response and will not be regarded as complying with the requirements of Paragraph 3.
5. The failure to complete in full the response form, or to return a fully completed response form or written reply compliant with Paragraph 3, may trigger the application of Paragraph 3(3). The same may occur if a member declares that they do not intend to attend or be represented at a hearing. The tribunal may at its discretion then determine the reference without a hearing.
6. From the date hereof, when a response that is not fully compliant with Paragraph 3 is received or no response is received at all, the tribunal will determine the reference without a hearing, unless the tribunal considers that it is, in all the circumstances, in the interests of justice to hold a hearing. The tribunal will not direct that a second or further opportunity is given to provide a full response, unless it believes that it is in the interests of justice to do so. The onus will be on a member to persuade the tribunal that it is in the interests of justice to be given another opportunity to provide a response.
7. Paragraph 3(2) of the Schedule provides that a response shall be filed by a member or her/his representative within 21 days of the receipt of the notice of reference but it also empowers the tribunal to extend the time for a member to file a full response “*to such later date as the tribunal may allow*”. From the date hereof, applications for extensions of time must be made within the initial 21 day response window (unless this is not possible for good reason), and must be supported by evidence explaining why the extension is required and would be in the interests of justice.

Date: 1 January 2020

Signed:

Claire Sharp

President of the Adjudication Panel for Wales