

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	14 September 2016
TITLE OF REPORT:	Adjudication Panel for Wales Findings 2013-2014, 2014-2015 and 2015-2016
PURPOSE OF REPORT:	To provide information on the matters given attention by the Adjudication Panel for Wales
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## 1. INTRODUCTION AND BACKGROUND

The Adjudication Panel for Wales was formed as a result of the Local Government Act 2000 and it has two statutory roles:

- To form case tribunals or temporary case tribunals in order to consider Ombudsman reports following investigations into allegations that a member has failed to conform with their Authority's code of conduct; and
- To consider appeals by members against decisions made by local authority standards committees that they have breached the code of conduct (in addition to considering whether permission to appeal will be given in the first place).

This report includes the decisions made by the Adjudication Panel for Wales for the periods 2013-2014, 2014-2015 and 2015-2016 and is intended as a factual summary of the matters placed before the Adjudication Panel. It will not replace the report provided to the Committee when the Adjudication Panel considers a complaint relating to Anglesey County Council.

## 2. 2013-2014

Please note the contents of **Enclosure 1**.

### 2.1 Decisions made

12/07/2013 – Ceredigion County Council – APW/008/2012-013/CT

19/07/2013 – Flintshire County Council – APW/005/2010-011/CT

### 2.2 Appeals heard

15/05/2013 – Mumbles Community Council – APW/009/2012-013/AT

### **3. 2014-2015**

Please note the contents of **Enclosure 2.**

#### **3.1 Decisions made**

None

#### **3.2 Appeals heard**

22/01/2015 – Sully and Lavernock Community Council – APW/001/2014-015/AT

### **4. 2015-2016**

Please note the contents of **Enclosure 3.**

#### **4.1 Decisions made**

13/08/2015 – Llanfihangel ar Arth Community Council – APW/002/2014-015/CT

11/03/2016 – Magor with Undy Community Council – APW/001/2015-016/CT

#### **4.2 Appeals heard**

10/09/2015 – Isle of Anglesey County Council – APW/003/2014-15/AT

**ATODIAD / ENCLOSURE**

**1**

**Crynodeb o'r Tribiwnlysoedd Achosion 2013-2014**  
**Summary of Cases in Tribunal 2013-2014**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr David Evans	<p>An allegation that Councillor Evans had breached Ceredigion County Council's Code of Conduct by claiming expenses he was not entitled to and had gained a financial advantage by over-stating his mileage and subsistence claims over a period of 11 years.</p> <p>The CPS advised the Police that no further action be taken.</p> <p>In accordance with Councillor Evans' wishes, no oral representations were made to the Tribunal and the decision was reached by way of written representations.</p>	Breach of paragraphs 6(1)(a), 7(a), 9(a) of the Code of Conduct	Disqualification for 3 months.	<p>The Tribunal found by unanimous decision that Mr Evans had failed to comply with the rules of the scheme and had wrongly over claimed for mileage claims, claimed mileage claims when he had not used his vehicle, made mileage claims when he had used another mode of transport and wrongly included a restaurant charge for his wife in his own expenses.</p> <p>Mr Evans was solely responsible for accurately completing his expense claim forms. Mr Evans was only entitled to submit claims in accordance with the scheme rules as they applied from time to time.</p>
Cllr Patrick Heesom	<p>An allegation that Councillor Heesom had breached Flintshire County Council's Code of Conduct by failing to show respect and consideration for officers of the Council; using bullying or harassing behaviour, attempting to compromise the impartiality of officers and, in so doing, conducting himself in a manner likely to bring his office or the Council into disrepute.</p> <p>Making threats towards officers such as</p>	Breach of paragraphs 4(a), 4(b), 6(i)(b) of the 2001 Code of Conduct, and paragraphs 4(b), 4(c) and 4(d) of the 2008 Code of Conduct	<p>Disqualification for 2 years and 6 months *</p> <p>(* appealed to the High Court where the disqualification was reduced to 18 months)</p>	<p>Councillor Heesom had failed to show respect and consideration for others and had used bullying behaviour towards officers.</p> <p>However, the case tribunal decision was appealed to the High Court. The High Court dismissed the appeal in respect of the case tribunal's findings on breach, save for 3 findings of breach that were quashed. The High Court reduced</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
	<p>“her days are numbered,” being confrontational and aggressive; trying to undermine officers such as “X is shit at her job.”</p> <p>The behaviour was noted on occasions between 14/02/2007 and 25/02/2009.</p>			<p>the sanction from a disqualification of 2 and a half years to 18 months.</p>

**Crynodeb o'r Tribiwnlysoedd Apêl 2013-2014**  
**Summary of Appeal Tribunals 2013-2014**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr John Cooper	<p>An appeal was submitted against the decision of the City and County of Swansea's Community and Town Council's Standards Sub-committee that the Councillor had breached Mumbles Community Council's Code of Conduct and should be suspended for a period of 18 weeks.</p> <p>The case involved allegations that the Councillor had breached paragraph 6(1)(a) of the Code of Conduct by making misleading statements about his personal assets to an Employment Tribunal when that Employment Tribunal was considering his liability for costs, and so he had misled the Employment Tribunal, thus bringing the office or authority into disrepute.</p>	Breach of paragraph 6(1)(a) of the Code of Conduct	The Appeal Tribunal unanimously decided to endorse the decision of the Standards Committee to suspend the Councillor for a period of 18 weeks.	<p>The Appeal Tribunal decided that Councillor Cooper had brought his office and authority into disrepute by his actions and the public were entitled and expect a higher standard of behaviour from elected members. The Appeal Tribunal considered the breach to be serious in that the Councillor had sought to mislead an Employment Tribunal and this went to the heart of his integrity.</p> <p>He was the owner of property and this was deemed to be an asset which he ought to have disclosed, despite the property being in negative equity.</p> <p>Councillor Cooper's argument that the Code did not apply as the Employment Tribunal proceedings was a civil matter unrelated to his role as councillor was not accepted.</p>

**ATODIAD / ENCLOSURE**

**2**

**Crynodeb o'r Tribiwnlysoedd Achosion 2014-2015**  
**Summary of Cases in Tribunal 2014-2015**

<b>Name</b>	<b>Summary of Facts</b>	<b>Relevant Provision of Code</b>	<b>Decision Summary</b>	<b>Findings</b>
No cases in Tribunal				



**Crynodeb o'r Tribiwnlysoedd Apêl 2014-2015**  
**Summary of Appeal Tribunals 2014-2015**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr Lino Scaglioni	<p>An appeal was submitted against the decision of the Vale of Glamorgan Standards Committee that the Councillor had breached the Sully and Lavernock Community Council's Code of Conduct and should be suspended for a period of six months.</p> <p>The case involved allegations that the Councillor had breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct by failing to show respect and consideration to another councillor. Councillor Scaglioni was alleged to have sent emails that referred to the other councillor in derogatory terms, to other members of the community council and a member of the public. It was also alleged that his conduct brought the office into disrepute.</p> <p>In accordance with Councillor Scaglioni's wishes, no oral representations were made to the Tribunal and the decision was reached by way of written representations.</p>	Breach of paragraphs 4(b) and 6(i)(a) of the Code of Conduct	Unanimous decision to overturn the determination of the Vale of Glamorgan Standards Committee; there was not a failure to comply with the community council's code of conduct	<p>Councillor Scaglioni had sent 4 emails that contained comments about Councillor Mahoney</p> <ul style="list-style-type: none"> <li>• An email from Councillor Scaglioni to Councillor Mahoney, marked private and begins 'Kevin' and ends 'Lino', from Sully Residents Association email account, was deemed to have been sent in a private capacity.</li> <li>• Another email sent from the Sully Residents Association email account, but began 'Councillor Mahoney' and signed 'Lino Scaglioni' and referring to conduct of council business, and widely circulated to other council members, was deemed to have been sent in an official capacity</li> </ul> <p>The Tribunal considered whether the emails attracted protection under Article 10 of the ECHR (comments of a political nature). When discussing Councillor Mahoney's abilities and achievements as a councillor, and conduct as a council, it was deemed to be political comments.</p> <p>Councillor Mahoney was also a county councillor as well as a</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
				<p>community councillor and the Tribunal commented that he should be used to confrontational exchanges of views.</p> <p>Preventing Councillor Mahoney from being able to communicate with the clerk of the council was not a failure to show respect, but because it was deemed that Councillor Mahoney could be 'difficult' at times, it was decided to be a genuine attempt to protect the clerk from inappropriate emails.</p>

**ATODIAD / ENCLOSURE**

**3**

**Crynodeb o'r Tribiwnlysoedd Achosion 2015-2016**  
**Summary of Cases in Tribunal 2015-2016**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr Paul Cawley	An allegation that Councillor Cawley had breached the Magor with Undy Community Council Code of Conduct by not declaring an interest or leaving the meetings whilst the clerk's remuneration package was considered. Councillor Cawley and the clerk were in a relationship and later married (some 6 months later).	Breach of paragraphs 6(1)(a) and 14(1)(a) of the Code of Conduct	<p>Unanimous decision that Councillor Cawley should be suspended for a period of 3 months.</p> <p>Recommendation made to the Magor with Undy Community Council that before returning to office Councillor Cawley undertakes further training.</p>	<p>The Ombudsman did not suggest that Councillor Cawley had improperly used his position to gain an advantage, but him remaining in the meeting to discuss the clerk's remuneration package, in light of his impending marriage, was damaging to the public confidence in the Council. The Councillor should have declared a personal and prejudicial interest and left the meeting. The fact the councillor and the clerk were not living together at the time was immaterial – it was the fact that they had been in a relationship for a number of months and were engaged to be married.</p> <p>The meeting involved the clerk's remuneration package and a substantial increase was being considered. Councillor Cawley's interest was one that would affect public perception of his ability to make a decision as a substantial increase was being considered and so a significant benefit for his future wife.</p> <p>Councillor Cawley had an interest in the matter being discussed and</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
				<p>should have left the room to ensure that no criticism of the process could be made.</p> <p>In remaining in the meeting he may have given the impression of impropriety to the public regardless of any complaints made. The test is not whether Councillor Cawley would take the decision without prejudice but whether he would be seen as doing so. The complaint by a member of the public reinforces the fact that councillor Cawley's actions had an adverse impact on the reputation of the authority and its probity in decision making.</p>
Councillor Haulwen Lewis	<p>An allegation that Councillor Lewis had breached Llanfihangel ar Arth Community Council's Code of Conduct by failing to declare a personal and prejudicial interest at a meeting of the Community Council during which a planning application for a wind farm on land adjacent to a farm she owns was considered and a secret ballot held in order to decide whether the Community Council would support or oppose the application.</p> <p>The Councillor had entered into a binding option contract under which she stood to receive from the wind farm</p>	Breach of paragraphs 10(1), 10(2), 11(1), 14(1), 15(1) and 15(2) of the Code of Conduct	Suspension for a period of 3 months.	<p>Councillor Lewis had ignored the opportunity to declare an interest on three separate occasions during the meeting.</p> <p>This was deemed to be a grave error of judgment and she had compounded her error by refusing to accept her difficulties in the "wholly unreasonable way that she conducted her response to the complaint, the Ombudsman's findings and the proceedings before the Tribunal".</p> <p>The Tribunal considered that a</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
	<p>operator a sum approaching one million pounds over the subsequent 30 years. The Councillor and her husband had been paid £25,000 for entering into the option agreements.</p> <p>The Councillor did not declare an interest. The Councillor did not withdraw; she took part in the ballot by voting to abstain.</p> <p>A confidentiality clause in the Option Agreement was not enough for her as a serving councillor not to disclose the existence of the agreement at the meeting.</p>			<p>suspension of 6 months would be justified, but in considering the Councillor's rights under Article 10 of the ECHR, the sanction was reduced in half.</p>

**Crynodeb o'r Tribiwnlysoedd Apêl 2015-2016**  
**Summary of Appeal Tribunals 2015-2016**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Councillor Peter Rogers	<p>An appeal was submitted against the decision of the Isle of Anglesey County Council's Standards Committee that he had breached the Isle of Anglesey Code of Conduct and should be suspended for a period of 1 month.</p> <p>The case involved the sale of land in which Councillor Rogers failed to declare a close personal association with the prospective purchaser of the land when communicating with officers of the Council and he had misused his position of member to gain an advantage for the prospective purchaser.</p> <p>Mr Rogers and Mr Geal had known each other for 40 years; they are friends and would see each other almost daily as they lived on neighbouring farms and Mr Geal's daughter is married to Mr Rogers' son.</p>	Breach of paragraph 10(1), 11(1), 11(2)(a) and 11(4) of the Code of Conduct	Unanimous decision to refer the matter back to the Standards Committee with a recommendation that Councillor Rogers should be suspended for 3 months	<p>Mr Rogers' and Mr Geal's relationship did constitute a close association within the meaning of the Code.</p> <p>Mr Rogers was acting in his official capacity which was confirmed by his statement "you will fully understand my role which is as a Councillor".</p> <p>The removal of a restrictive covenant and replacement with an overage clause, as suggested by Mr Rogers, led to Mr Geal successfully concluding the land transaction without any restrictions placed upon the usage.</p> <p>The breaches of the Code of Conduct occurred over a protracted period of time between March 2012 and August 2013.</p> <p>The original suspension was for a period of 1 month. The APW's recommendation increased it to 3 months.</p>