

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	14 March 2018
REPORT TITLE:	Adjudication Panel for Wales Decisions
PURPOSE OF THE REPORT:	To provide information about the matters considered by the Adjudication Panel for Wales since 13 <sup>th</sup> September 2017
REPORT BY:	Head of Function (Council Business)/Monitoring Officer
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## 1. INTRODUCTION AND BACKGROUND

The Adjudication Panel for Wales (APW) was established by the Local Government Act 2000. It has two statutory functions:-

1. To form case tribunals, or interim case tribunals, to consider reports from the Public Services Ombudsman for Wales (PSOW) following investigations by the PSOW into allegations that a member has failed to comply with their authority's code of conduct; and
2. To consider appeals from members against the decisions of their own authority's standards committee that they have breached the code of conduct (as well as deciding if permission will be given to appeal in the first instance).

This report includes decisions made and published by the APW during the period since the last meeting of the Standards Committee on the 13<sup>th</sup> September 2017. It is intended as a factual summary of the matters decided by the APW. The reported cases for the relevant period are currently available on the [APW website](#)

## 2. SUMMARY OF THE RELEVANT CASES

A summary of the relevant case/s is/are at **ENCLOSURE 1**.

## **2.1 Decisions made**

23/10/2017- Flintshire County Council – APW/001/2017-018/CT

## **2.2 Appeals adjudicated**

None

## **3. RECOMMENDATION**

To note the content of the case summary/ies.

**Crynodeb o'r Tribiwnlysoedd Achosion – September 2017-March 2018**  
**Summary of Cases in Tribunal – September 2017 – March 2018**

Name	Summary of Facts	Decision Summary	Findings
<a href="#">Former Councillor Cllr Alison Halford</a>  Flintshire County Council	<p>An allegation that Councillor Halford had breached Flintshire County Council's Code of Conduct by sending a communication which failed to show respect and consideration for others and used bullying and harassing behaviour.</p> <p>The Councillor failed to properly and meaningfully engage with the adjudication process despite the APW providing several opportunities to do so over a period of 3 months</p>	<p>The Panel found the following breaches:-</p> <ol style="list-style-type: none"> <li>Under Paragraph 4(b)               <ol style="list-style-type: none"> <li>Failure to show respect and consideration. The Panel concluded that comments made by the Councillor would have adversely affected the Officer's ability to properly carry out their role.</li> <li>That the Councillor's conduct towards the officer displayed a total lack of courtesy and consideration</li> <li>The Councillor's comments were wholly gratuitous and unjustified and as others, such as senior officers, were copied into the e-mails, calculated to intimidate or undermine the officer whose job was already under threat owing to restructuring</li> </ol> </li> <li>Under paragraph 4(c)</li> </ol>	<p><b>Learning points for elected members</b></p> <ul style="list-style-type: none"> <li>To use social media in a responsible manner</li> <li>Not to disseminate communications more widely than necessary</li> <li>Not to make unwarranted and unjustified comments against officers</li> <li>Not to abuse their position as Councillor</li> </ul> <p><b>Learning points for the Standards Committee</b></p> <ul style="list-style-type: none"> <li>Many complaints arise from alleged failure to show respect and consideration / bullying and harassment / disrepute</li> <li>The Panel considered the case of <u>Sanders v Kingston</u> No(1) [2005] EWHC 1145 and Article 10 of the Human Rights Act in relation to both breach and sanction and whether the comments made by Councillor Halford could be considered to be political expression and therefore attract enhanced protection under Article 10. The Panel considered that the comments were entirely gratuitous,</li> </ul>

Name	Summary of Facts	Decision Summary	Findings
		<p>a) That the Councillor's comments were intended to bully and had the effect of bullying the officer</p> <p>b) The comments were highly offensive , extremely insulting , malicious and unwarranted with the officer having been singled out unfairly</p> <p>c) That the Councillor's behaviour fell well below the standards of behaviour expected of a Member.</p> <p><b><u>Sanction</u></b>  <b>As she was no longer a Councillor - Disqualification for 14 months-due to the serious nature of the bullying and it being sufficiently long for the Councillor to reflect upon her actions</b></p>	<p>abusive and offensive personal comments divorced from any political debate.</p> <ul style="list-style-type: none"> <li>- They also considered the case of <u>Heesom v Public Service Ombudsman for Wales</u> [2014] EWHC 1504 (Admin) in relation to what sanction should be imposed.</li> <li>- Although the present case only involved one officer and 3 incidents over a relatively short period of time they considered it comparable in seriousness to the <u>Heesom case</u>. They therefore considered that a 14 month period of disqualification was an entirely appropriate sanction</li> </ul>
<p><a href="#">Former Councillor Stuart Anderson</a></p> <p>Conwy County Borough</p>	<ul style="list-style-type: none"> <li>• Repeated allegations against three council employees:- <ul style="list-style-type: none"> <li>- one officer was incapable of discharging his role owing to alleged dementia;</li> <li>- a second officer was a "psychopath";</li> </ul> </li> </ul>	<p>The following breaches were found:-</p> <ul style="list-style-type: none"> <li>• 4(a) "... equality of opportunity for all people, regardless of ... disability ..."</li> <li>• 4(b) respect and consideration</li> </ul>	<ul style="list-style-type: none"> <li>• Allegations/breaches upheld</li> <li>• Significant aggravating features identified in the decision of the APW (see paragraph 6.5.3). Breaches serious, extensive and repeated despite warnings.</li> </ul>

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Council	<ul style="list-style-type: none"> <li>- a third officer was dishonest and had fabricated evidence</li> <li>• Undue influence to bear on a fourth officer in order to secure a favourable outcome for a friend.</li> <li>• Used the scrutiny process to secure a favourable outcome for a friend.</li> <li>• Made a number of written and oral submissions in support of a favourable outcome for a friend.</li> <li>• In all cases (except the scrutiny meeting) failed to declare the personal and prejudicial interest arising from the close personal association.</li> <li>• Repeatedly disclosed and circulated more widely than was justified, sensitive personal data in relation to employees, including HR information and medical information.</li> <li>• Failed to cooperate with the investigation/hearing process.</li> </ul>	<ul style="list-style-type: none"> <li>• 4(c) bullying and harassment</li> <li>• 4(d) compromising the impartiality of employees</li> <li>• 5(a) disclosure of confidential information without consent</li> <li>• 6.1(a) bringing the role of councillor into disrepute</li> <li>• 7(a) use of capacity to secure an improper advantage (for his friend)</li> <li>• Paragraph 10 of the Code – personal interest</li> <li>• Paragraph 11 of the Code – failure to declare the personal interest orally and in writing</li> <li>• Paragraph 12 of the Code – prejudicial interest – participation in the presence of a prejudicial interest</li> <li>• 14(1)(c) making written submissions in the presence of a prejudicial interest</li> </ul>	<ul style="list-style-type: none"> <li>• Although not a binding precedent, represents an evolution on <u>Calver v The Adjudication Panel for Wales v Public Service Ombudsman for Wales [2012] EWHC 1172 (Admin)</u> in that it suggests that the level of protection for political free speech under Article 10 of the ECHR must be balanced against the private rights and interests of individuals. In essence it concludes that the rights of data subjects under the Data Protection Act, when it comes to sensitive personal information, creates a high bar for political freedom of expression to be seen as a legitimate justification. It also clarifies that the so called “thicker skin” principle applies to Chief Executives and Directors but probably not to other senior staff. The decision certainly does not overreach Calver but, along with other recent cases like <u>PSOW v Former Councillor Alison Halford APW/001/2017-018/CT</u> and <u>PSOW v Councillor Neil McEvoy APW/002/2016-017/CT</u>, it restores some balance in relation to those cases involving officers. This does not necessarily apply to other elected members.</li> </ul>