

<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>COMMITTEE:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>17 September 2019</b>
<b>REPORT TITLE:</b>	<b>Decisions by the Adjudication Panel for Wales</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To provide information about the matters considered by the Adjudication Panel for Wales to date (publishing period March 2019 – August 2019)</b>
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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 published by the APW during the period since the Standards Committee on the 13<sup>th</sup> March 2019. 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

17.07.2019 – Councillor Graham Down of Mathern Community Council  
(formerly of Monmouthshire County Council) [APW001/2018-019/CT]

**2.2 Appeals adjudicated**

None

**3. RECOMMENDATION**

To note the content of the case summary/ies.

**Summary of Cases in Tribunal – March 2019 – August 2019**

Name	Summary of Facts	Decision Summary	Findings
<p>Former County Councillor (currently Community Councillor) Graham Down</p> <p>Monmouthshire County Council (currently Mathern Community Council)</p>	<p>An allegation that Councillor Down had breached the Mathern Community Council's Code of Conduct by bringing his authority into disrepute when he made homophobic remarks at a public hearing of the Adjudication Panel for Wales (APW) on 19.07.2019 and when he wrote homophobic comments in a letter to the APW on 24.04.2019, in alleged breach of Paragraph 6(1) of the Code.</p> <p>The Councillor was appearing before the APW on 19.07.2019 as a result of an alleged breach of Paragraph 4(b) of the Code (for failing to show respect and consideration for others). Details of this matter was included in the Standards Committee's Agenda on 13.03.2019 (Item 7) ('the original hearing').</p> <p>The comment: "I cannot be a part of a system where I am required to suppress my conscience. I will not do so, nor will I stand up for, defend or promote the hideous and sickening perversions of</p>	<p>The case tribunal decided that the case should be dismissed on the basis that the second referral to the APW and the subject matter of the case was not in accordance with the requirements of section 69(1)(a) or (b) of the Local Government Act 2000 as there was no written complaint about the alleged breach of the Code and the potential breaches of the Code did not come to the PSOW's attention as a result of an investigation under section 69(1)(a).</p> <p>The PSOW had referred the matter to the APW directly without investigation.</p> <p>The decision itself can be seen on this link - <a href="https://gweddiill.gov.wales/docs/apw/publications/190717-decision-graham-down.pdf">https://gweddiill.gov.wales/docs/apw/publications/190717-decision-graham-down.pdf</a></p>	<p>The decision is dated 17<sup>th</sup> July 2019 and details that the PSOW is to investigate complaints from third parties, and not to initiate the complaints or the investigations himself. The decision by the case tribunal details that "it is not for the PSOW to proactively investigate potential breaches of the Code in the absence of a written allegation (save for in the circumstances in section 69(1)(b) that the Case Tribunal has determined do not apply here)".</p> <p>On 22<sup>nd</sup> May 2019, the Public Services Ombudsman (Wales) Act 2019 came into force, which details further powers for the PSOW to investigate on own initiative. However, this does not cover alleged breaches of the Code of Conduct for members of relevant authorities. The Act can be seen on this link - <a href="http://www.legislation.gov.uk/anaw/2019/3/enacted">http://www.legislation.gov.uk/anaw/2019/3/enacted</a></p>

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	<p>shirt-lifters” was made by Councillor Down at the conclusion of the original hearing, at the announcement of the tribunal’s findings.</p> <p>Councillor Down was sent a copy of the APW’s decision by letter on 20<sup>th</sup> July 2018 and responded by letter of 24<sup>th</sup> July 2018 detailing “I believe homosexuality activity to be a sickening, depraved practice and I shall continue to say so”.</p> <p>The Report by the APW deals with the reference made by PSOW to the APW in relation to these alleged breaches. The case tribunal, based on papers only, was to decide, in the first instance whether the case had been properly referred to the APW in accordance with the law.</p>		