

**Report to** : **Standards Committee**  
**Date of Meeting** : **30<sup>th</sup> November 2012**  
**Report Author** : **Monitoring Officer**  
**Title** : **Annual Report of the Adjudication Panel for Wales 2011/2012**

## **1. PURPOSE OF REPORT**

1.1 To advise members of the issue of the Annual Report of the Adjudication Panel for Wales 2011/2012.

## **2. BACKGROUND**

2.1 The Adjudication Panel for Wales has issued its annual report for the financial year 2011/2012. The report provides an overview of the work of the Adjudication Panel and contains summaries of the cases and appeals that the Panel has dealt with over the last year. The full report can be found at [www.wales.gov.uk/apwsuite/APW-PDC/?lang=en](http://www.wales.gov.uk/apwsuite/APW-PDC/?lang=en).

2.2 The Adjudication Panel has two statutory functions. The first is to form case or interim case tribunals to consider reports from the Public Services Ombudsman for Wales following the investigation of allegations that a member has failed to comply with the relevant authority's Code of Conduct. The Adjudication Panel considers the most serious allegations of breaches of the Members' Code of Conduct. The second statutory function is to consider appeals from members against the decisions of local Standards Committees following a referral to those committees by the Public Services Ombudsman for Wales.

2.3 During 2011-12, the Panel received only 4 new referrals from the Public Services Ombudsman for Wales and had 8 cases carried over from the previous financial year 2010-11. The Panel has been kept very busy by a single case carried over from the previous year related to Flintshire County Council. The relatively low number of new referrals should not be taken as an indication of the work being done by the Panel.

2.4 The low number of new cases would appear to indicate that there has been a reduction in the number of serious cases that the Ombudsman feels necessary to refer to the Panel. This has however meant that new members appointed to the Panel in the autumn of 2010 have had less opportunity to sit alongside more experienced colleagues. As a result the Welsh Government has recently agreed that some of the more experienced panel members first appointed in 2002 should have a limited reappointment for a three year period to 2015 in order that the

new members can sit with original members and gain from their experience. The Panel considers that this reappointment will also help provide stability for the Panel during the transfer of its administration to the Administrative and Tribunals Unit within Welsh Government. The Panel is made up of 7 legally qualified members and 6 lay members.

- 2.5 Since its conception in October 2002 to the 31<sup>st</sup> March 2012 the Adjudication Panel has made determinations in respect of 37 cases referred to it from the Ombudsman and 10 appeals against the decisions of the Standards Committees. In respect of the cases referred directly to it, the Panel has made the following findings expressed as a percentage of the whole.

Disqualification	19%
Suspension	49%
Partial suspension	5%
Censure	5%
Breach but no action to be taken	14%
No breach	8%

- 2.6 In respect of appeals referred to it from Standards Committees during the same period the Panel has made the following decisions:

Suspension	60%
Censure	30%
No breach	10%

- 2.7 Of all the cases referred to it between October 2002 and March 2012 the most common breach found by the Panel was that of bringing the office of member or authority into disrepute. In equal second place were failing to show respect or consideration together with the failure of a member to disclose an interest and/or withdraw.

- 2.8 Of the cases referred to the Panel and those carried forward from the previous year, 6 cases have been determined during the financial year 2011-12 and summaries of those 6 cases are contained within the report.

- 2.9 There were 2 cases on appeal from Standards Committees during the relevant year. In both cases the Appeal Tribunal upheld the determination of the local Standards Committee. One of those cases however was the subject of a Judicial Review in the High Court where the Appeal Tribunal and Standards Committee decisions were overturned. This appeal related to the case of Councillor Calver of Manorbier Community Council who had been censured by his local Standards Committee in respect of the content of postings made by him on his website. The Standards Committee and Appeals Tribunal had found that these postings showed a lack of respect to individual members of the Community Council and to the Community Council as a body.

- 2.10 The High Court found that the censure imposed on Councillor Calver was an infringement of his rights to freedom of expression under Article 10 of the European Convention of Human Rights.
- 2.11 The Ombudsman has subsequently amended the guidance that he has given to members in light of this case.
- 2.12 As an annex to the report the Panel have provided a summary of the sanctions imposed by the case tribunals and appeal tribunals in the period October 2002 to March 2012. This is attached as Appendix 1 to this report.

### **3. RECOMMENDATION**

- 3.1 That members note the report.