

Meeting of:	<b>Standards Committee</b>
Date of Meeting:	<b>Thursday, 10 September 2020</b>
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
Report Title:	Adjudication Panel for Wales Annual Report 2018-19
Purpose of Report:	To apprise Members of the Annual Report of the Adjudication Panel for Wales 2018/19
Report Owner:	Debbie Marles, Monitoring Officer / Head of Legal and Democratic Services
Responsible Officer:	Karen Bowen, Principal Democratic and Scrutiny Services Officer
Elected Member and Officer Consultation:	This is a matter for decision by the Standards Committee
Policy Framework:	This is a matter for the Standards Committee
Executive Summary:	<ul style="list-style-type: none"> <li>To apprise Members of the Adjudication Panel for Wales Annual Report 2018/19 (at Appendix 1) which provides details of the performance and progress for 2018/19.</li> </ul>

## **Recommendation**

1. That Members consider the Adjudication Panel for Wales Annual Report 2018/19 attached at Appendix 1 and consider and note its contents.

## **Reason for Recommendation**

1. To apprise Members.

### **1. Background**

- 1.1 The Adjudication Panel for Wales (APW) is an independent tribunal set up to determine alleged breaches of an Authority's Statutory Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.
- 1.2 The APW has two statutory functions in relation to breaches of the Members' Code of Conduct:
  - To form case or interim case tribunals to consider references from the Public Services Ombudsman for Wales following the investigation of allegations that a Member has failed to comply with their Authority's Members' Code of Conduct; and
  - To consider appeals from Members against the decisions of Local Authority Standards Committees that they may have breached the Members' Code of Conduct.

### **2. Key Issues for Consideration**

- 2.1 The APW Report is attached at Appendix 1 to this report, section 2 (at page 8-11) provides details of the performance and progress from 2014 to 2019 and details the number of references and appeals that have been received each year. Summaries of case tribunal hearings can be found at Section 3 (page 12) of the APW Report.
- 2.2 Members are requested to consider the contents of the APW Report.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1 The role of the Standards Committee is to promote and maintain high standards of conduct by Councillors, Co-opted Members and Church and Parent Governor Representatives.
- 3.2 The APW is an independent tribunal that has been set up to determine alleged breaches against Authority's Members' Code of Conduct by Elected and Co-opted Members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** None as a direct result of this report other than Members are remunerated for attendance at meetings under the Allowance Scheme agreed by the Independent Remuneration Panel for Wales and the Vale of Glamorgan Council's Constitution.

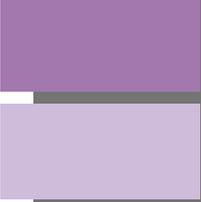
### **Employment**

- 4.2** The Council has a statutory duty to establish and maintain a Standards Committee as defined by legislation as set out in the Standards Committee Rules and Regulations 2001 and the Standards Committee (Wales) Amendment Regulations 2006.

### **Legal (Including Equalities)**

- 4.3** The Council has a statutory duty to establish and maintain a Standards Committee as defined by legislation as set out in the Standards Committee Rules and Regulations 2001 and the Standards Committee (Wales) Amendment Regulations 2006.

## **5. Background Papers**



# Adjudication Panel for Wales Annual Report

Year 2018 – 2019

PDC / APW

PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

# Foreword

This is my fourth annual report as President of the Adjudication Panel for Wales. The report covers the period 1 April 2018 – 31 March 2019.

We aim to ensure that the Panel serves the interests of all those in Wales falling within our jurisdiction, by dealing with any disputes both efficiently and effectively. Specifically, we make every effort to ensure that all those involved in the dispute ultimately feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We also are conscious that the wider public must have confidence that any breaches of the Code of Conduct by members will be dealt with fairly and in a timely way in order to uphold trust and confidence in local democracy.



This year could be seen as a successful one for standards in local government and other relevant authorities as the APW only received one reference (and no applications to appeal decisions of standards committees). This supports a view that the overwhelming majority of councillors are abiding by the Code of Conduct and/or matters are being resolved at a more local level. The training given by monitoring officers and others, both at the principal council level and town/community council level, combined with the regular publication of the Public Services Ombudsman for Wales' Casebook, are likely to have contributed to this success.

It is also evident that this year's volume of cases is unusually low, as shown by the references adjudicated upon in the subsequent financial year and historic trends. In order to ensure that cases are resolved in a timely way, the APW launched a recruitment exercise to appoint new legal members and took part in the first Welsh tribunals cross-ticketing exercise to access the skills of experienced legal members from our sister tribunals where required.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar.

A handwritten signature in blue ink, appearing to read 'C Sharp', located below the text of the foreword.

**Claire Sharp**  
**President, Adjudication Panel for Wales**

# Section 1 – About Us

In this section:

- Basis for the APW
- The APW's Function
- The APW's Regulations
- The APW's Process
- Members of the APW
- Appointments
- Training
- Contacting the APW
- Accessing the APW

## Basis for the APW

The Adjudication Panel for Wales (APW) is an independent tribunal that has been set up to determine alleged breaches against an authority's statutory Code of Conduct by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities.

The APW was established under Part III of the Local Government Act 2000.

## The APW's Function

The Code of Conduct for an authority provides its members with a set of standards expected of them in public life. The code of conduct covers various requirements as to how members should conduct themselves and includes requirements in relation to equality, personal and prejudicial interests, confidential information, their authority's resources and the need to avoid bringing their office or authority into disrepute.

The APW has two statutory functions in relation to breaches of the Code of Conduct:

- to form case or interim case tribunals ("Case Tribunals") to consider **references** from the Public Service Ombudsman for Wales (PSOW), following the investigation of allegations that a member has failed to comply with their authority's Code of Conduct; and
- to consider **appeals** from members against the decisions of local authority standards committees that they have breached the Code of Conduct ("Appeal Tribunals").

## The APW's Regulations

- The APW operates in accordance with its procedural regulations and other associated legislation. The regulations ensure that all cases heard by the APW are treated fairly, consistently, promptly and justly. They ensure that everyone who comes before the APW clearly understands the steps they must take so that the facts of the dispute and the relevant arguments can be presented effectively to the APW. They also ensure that every party to a case understands the arguments of the other party and can respond to them.

APW's procedures are governed by the following legislation:

- The Local Government Act 2000 (as amended);
- The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended), and
- The Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001 (as amended)).

## The APW's Process

Anyone wishing to respond to a reference from the PSOW or to make an application for permission to appeal to the APW must complete and send the relevant form to the APW.

At an APW hearing the panel is composed of a legally qualified chairperson and 2 lay members. Legally qualified members can also sit as a lay member. APW hearings are normally held in public and take place near to the authority area, subject to the availability of a suitable venue.

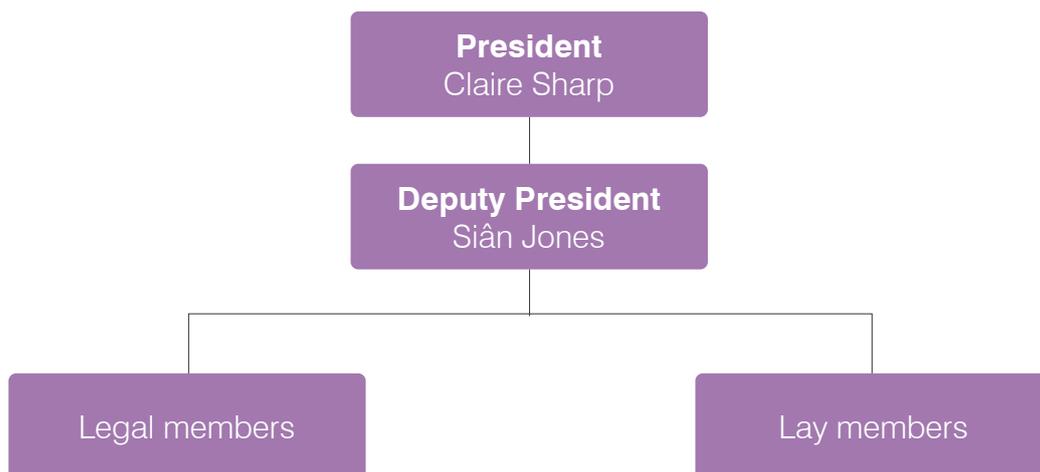
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 7.

## Members of the APW

Appointments to the APW are made by the First Minister after consideration of recommendations made by the Judicial Appointments Commission.

<b>President</b>	The President has judicial responsibility for the APW and its members.
<b>Deputy President</b>	The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently.
<b>Legal Members</b>	Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the Secretariat on matters of law. Legal members write APW decisions and give directions where necessary.
<b>Lay Members</b>	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
<b>Administration</b>	The day-to-day operations are largely delegated to the administration which deals with all the preliminary paperwork and the processing of applications to the APW. The administration consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and sends rulings and directions in writing to the parties. The administration acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings.



## Appointments

During this period, we have appointed 2 new legal members cross ticketed from other tribunals. The APW also launched (through the Judicial Appointments Commission) a recruitment exercise for 2 legal members appointed under the Local Government Act 2000, though this completed in the subsequent financial year.

## Training

A training seminar was held during June 2018, with particular emphasis on judgecraft, anonymity and the right to privacy, verbal and non-verbal communication and decision drafting.

Induction training for newly appointed cross-ticketed members also took place this year in October 2018.

A regular programme of performance appraisal for APW members has been completed over previous years. It is anticipated that the next round of performance appraisal for APW members will start during the course of the 2019-20 year.

## Contacting the APW

To contact the APW Administration:

APW Address:                      Adjudication Panel for Wales  
     Government Buildings  
     Spa Road East  
     Llandrindod Wells  
     Powys  
     LD1 5HA

APW Helpline:                      03000 259805

APW E-mail:                        [adjudication.panel@gov.wales](mailto:adjudication.panel@gov.wales)

## Accessing the APW

The APW is happy to communicate with you in Welsh or English. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provisions will be made.

To enable arrangements for interpreters or to make provisions for any additional needs of attendees, sufficient notice must be given to the administration.

## Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Onward appeals
- Achievement against key performance indicators
- Complaints

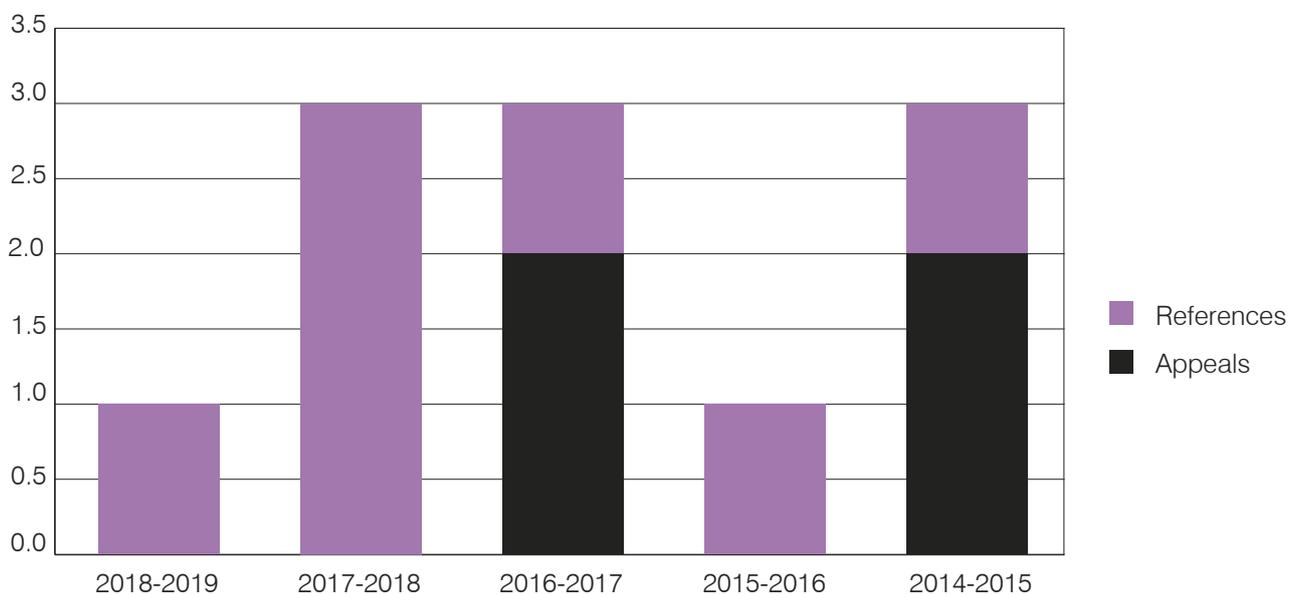
### Numbers and Statistics

A Tribunal year runs from April to March. As the numbers of cases received are relatively low, figures are given for a 5 year period to allow for comparison.

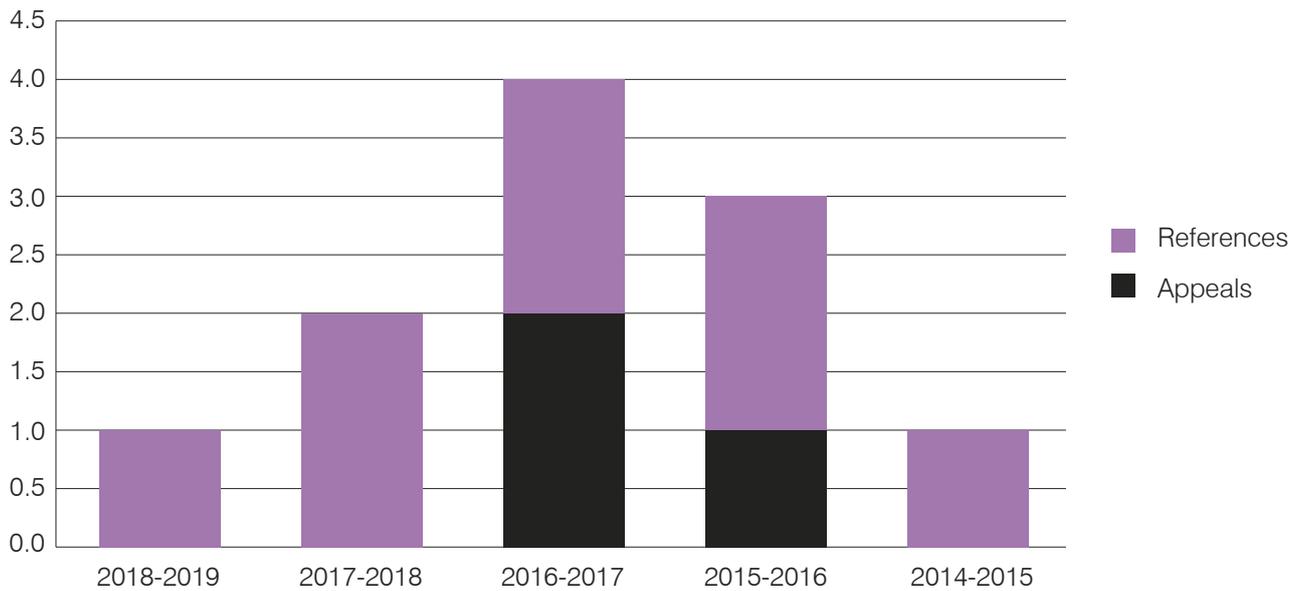
The following statistics are collated:

- Number of references and appeals received
- Type of applications received and registered
- Number of applications finalised
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year

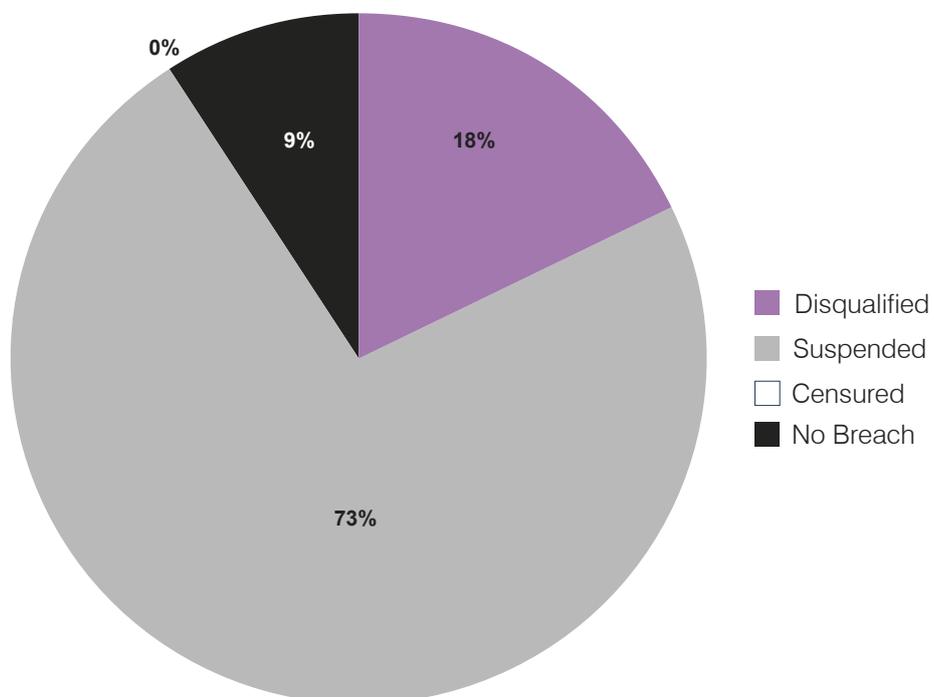


Graph 2.2: Number of references and appeals decided by year April 2014-March 2019

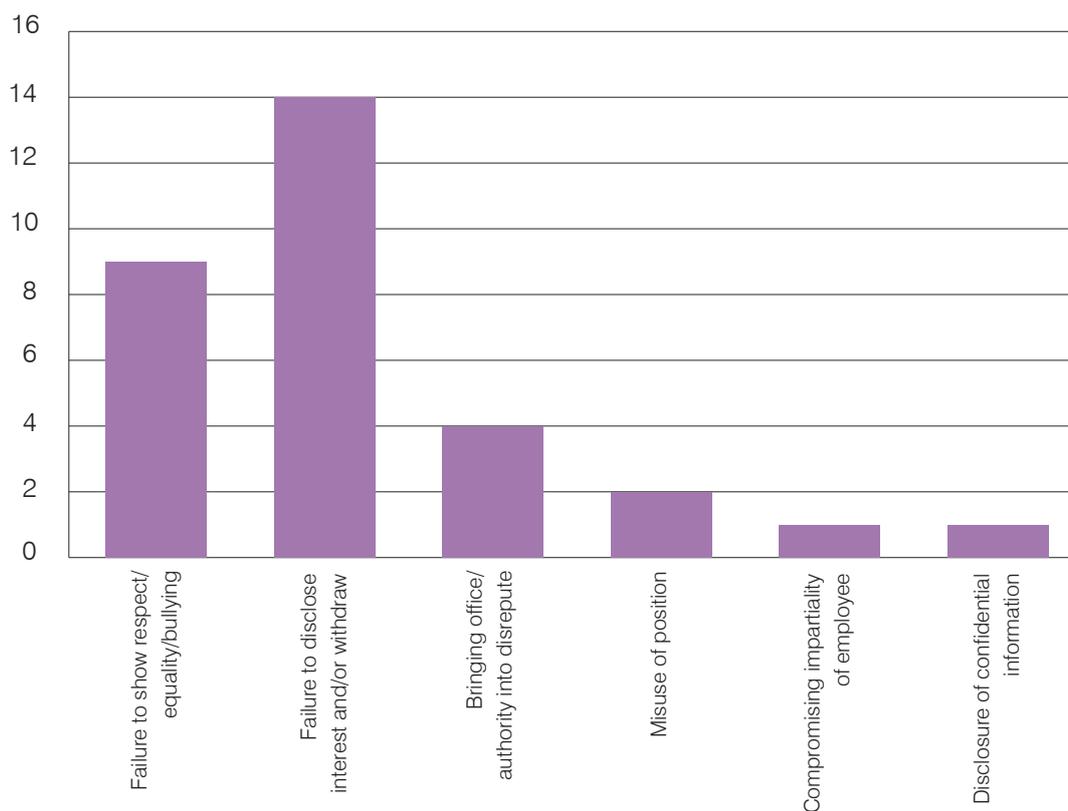


Charts 2.3: Outcomes of references and appeals April 2014-March 2019

The chart below shows the outcome of references and appeals decided by the Adjudication Panel over the last 5 years



Graph 2.4: Breaches by type April 2014-March 2019



### Hearings data

During 2018-2019, 1 referral from the PSOW proceeded to hearing, resulting in a total of 1 hearing day:

Type	Length (in days)
Reference	1 hearing days
Appeal	0 hearing days

There was also 1 telephone conference which took place in relation to this case.

### Onward appeals

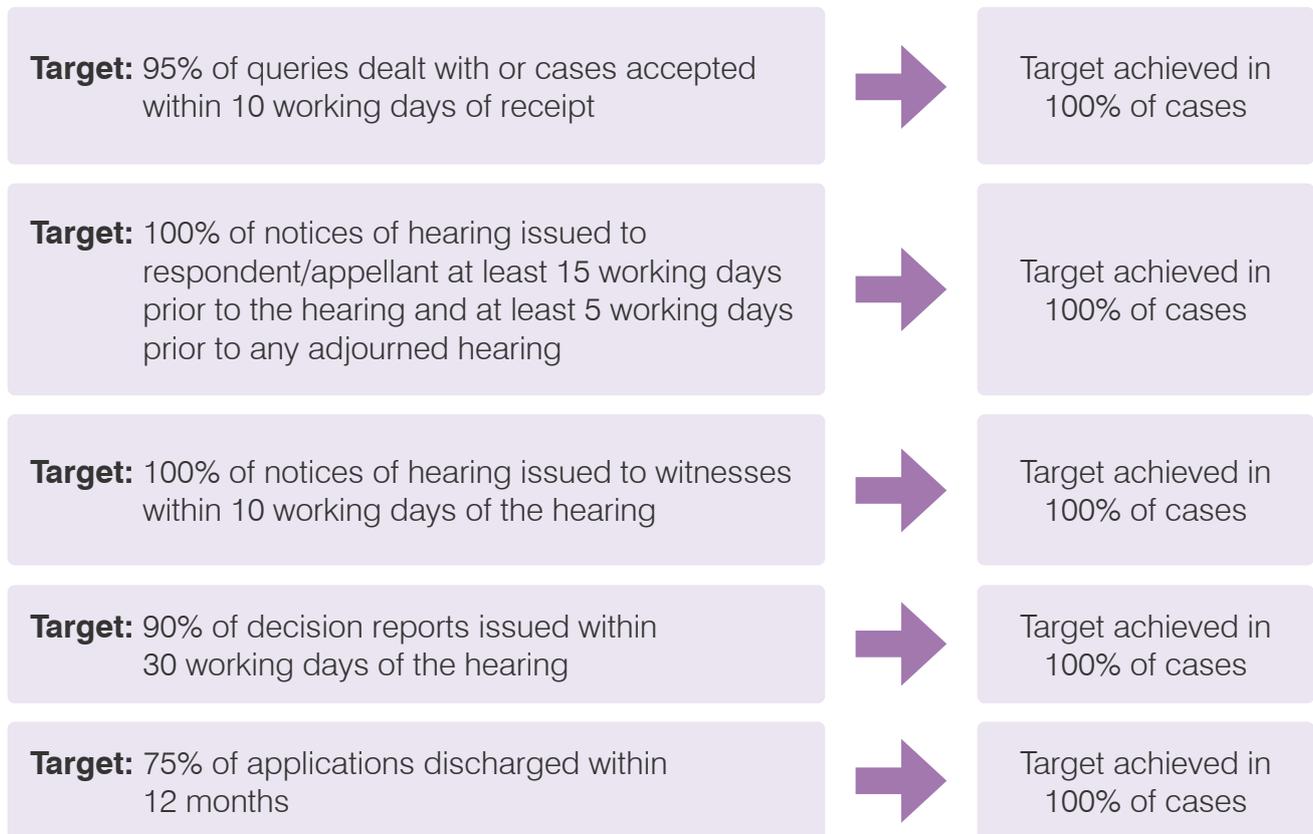
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

## Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our business; the speed of our service and the quality of service through customer satisfaction.

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below). To measure customer satisfaction, we use an indicator that is derived from feedback forms that are issued when a case is complete (see section 4).

### Speed of our service 2018-2019



### Complaints

The APW did not receive any formal complaints during the reporting period.

## Section 3 – Case summaries

In this section:

- References
- Appeals

### References

During the reporting period, 1 case tribunal took place resulting from a reference from the Ombudsman. A summary of the case determined by the APW appears below.

[APW/003/2017-018/CT](#)

[Monmouthshire County Council \(currently Mathern Community Council\)](#)

The allegations were that the councillor had breached the Code of Conduct of Monmouthshire County Council by failing to show respect and consideration for others.

The conduct arose from a number of emails sent by the councillor to the Chief Executive of the Council which contained homophobic statements over several months during 2016.

The Case Tribunal found unanimously that the councillor had failed to comply with Monmouthshire County Council's Code of Conduct by failing to show respect and consideration for others. It found that while the comments within the relevant emails constituted political expression and an expression of religious belief, the councillor's comments that homosexuality was "an immoral perversion" and that there was no difference between it and paedophilia were a breach of the Code of Conduct.

The Case Tribunal stated that the comments were so unnecessary, offensive and egregious that they amounted to a blatant disregard for equality principles and legislation, the public interest in good administration and the duty of trust and confidence between all councillors and their Council's workforce.

The Case Tribunal concluded unanimously that the councillor should be suspended for two months from acting as a member of Mathern Community Council. It also recommended that the councillor sought equalities training.

### Appeals

No applications to appeal were made to the President of the APW.

## Section 4 – Our Customers

In this section:

- Customer satisfaction survey

### Customer satisfaction survey

The APW strives to improve customer service delivery and its aim is to put our customers at the heart of everything we do.

During 2018-2019 the APW distributed customer satisfaction survey on 1 case following completion. The feedback from the survey enables us to gain a better understanding of our customers' needs and gives a valuable insight into what the APW is doing well, as well as highlighting those areas where the APW needs to improve.

We received no completed forms during 2018-2019.

## Section 5 – Business Priorities

In this section:

- Business priorities for 2019-2020

It is important that the APW continues to develop in order to deliver the best possible service for our customers. This section is about how the APW will build on its achievements through focusing on business priorities and our commitment to our customers.

### Business Priorities 2019-2020

- Plan and deliver an all-members training event and training for new legal members;
- Complete and publish updated Sanctions Guidance;
- Develop a communication strategy in order to inform the public in a more accessible manner about the APW and its work, including updating the APW website to include non-written forms of communication;
- Deliver an effective and efficient service, meeting key performance indicators and responding to feedback on customer satisfaction surveys.

## Section 6 – Expenditure

In this section:

- Expenditure for 2018-2019

### Expenditure for 2018-2019

Content	Amount
Members Fees and Expenses for tribunal proceedings*	£27,976
Tribunal Training Costs	£4,727
Tribunal events (hearing costs)*	£1,223
<b>Total</b>	<b>£33,926</b>

\* rounded to the nearest £1,000