
STATUTORY INSTRUMENTS

2023 No. 1005

The Judicial Discipline (Prescribed Procedures) Regulations 2023

Part 2

Complaints and investigation of cases

Complaint of misconduct

6.—(1) Subject to paragraph (2), a complaint about an office holder must be made to the JCIO.

(2) A complaint about a justice of the peace must be made to the secretary of the conduct advisory committee for the local justice area to which the justice of the peace is assigned under section 10(2) of the Courts Act 2003(1).

Investigation process

7.—(1) The Lord Chief Justice, with the agreement of the Lord Chancellor, may make rules about the process to be applied in respect of a complaint.

(2) Rules under paragraph (1) shall not apply in relation to an office holder who exercises functions wholly or mainly in Scotland, unless they are made with the agreement of the Lord President of the Court of Session.

(3) Rules under paragraph (1) shall not apply in relation to an office holder who exercises functions wholly or mainly in Northern Ireland, unless they are made with the agreement of the Lord Chief Justice of Northern Ireland.

(4) The rules may include provision as to any of the following:

- (a) the form of a complaint;
- (b) the information to be contained in a complaint;
- (c) time limits for taking any step and procedures for extending or shortening time limits;
- (d) the circumstances in which a case may be dismissed;
- (e) the circumstances in which an investigation may be undertaken (on the making of a complaint);
- (f) the conduct of an investigation, including steps to be taken by the office holder concerned, by a complainant or any other person;
- (g) the circumstances in which a case may be investigated by the JCIO, a secretary, a deputy secretary, a nominated judge, a nominated committee member, an investigating judge or a disciplinary panel;
- (h) the circumstances in which a case may be dealt with under a summary process;
- (i) the circumstances in which a case may be dealt with under an expedited process;

- (j) the circumstances in which a case which has initially been dismissed may be reconsidered.

Nominated judge

8.—(1) A nominated judge is an office holder who is nominated by the Lord Chief Justice to deal with a case or cases as a nominated judge in accordance with rules made under regulation 7.

(2) The Lord Chief Justice may nominate different office holders to deal with different cases or to deal with different aspects of the same case.

(3) In a particular case, a nominated judge must be of at least the same rank as the office holder concerned.

Nominated committee member

9.—(1) A nominated committee member is a person who is nominated by the Lord Chief Justice to deal with a case or cases as a nominated committee member in accordance with rules made under regulation 7.

(2) The Lord Chief Justice may nominate different nominated committee members to deal with different cases or to deal with different aspects of the same case.

(3) A nominated committee member must be a member of a conduct advisory committee.

Investigating judge

10.—(1) An investigating judge is an office holder or a former office holder who is nominated by the Lord Chief Justice to investigate a case or cases as an investigating judge in accordance with rules made under regulation 7.

(2) The Lord Chief Justice may nominate different office holders to investigate different cases or to investigate different aspects of the same case.

(3) An investigating judge must be of a higher rank than the office holder concerned.

(4) In relation to a former office holder reference to their rank means the rank they held immediately before they ceased to hold office.

Disciplinary panel

11.—(1) A disciplinary panel where the office holder concerned is not a justice of the peace is a panel consisting of—

(a) either an office holder or former office holder who is of a higher rank than the office holder concerned; and

(b) two other members, neither of whom has been—

(i) an office holder; or

(ii) a practising or employed lawyer.

(2) A disciplinary panel where the office holder concerned is a justice of the peace is a panel consisting of—

(a) either an office holder or former office holder who is of a higher rank than the office holder concerned;

(b) a justice of the peace; and

(c) one other member, who has not been—

(i) an office holder; or

(ii) a practising or employed lawyer.

(3) In relation to a former office holder, reference to their rank means the rank they held immediately before they ceased to hold office.

(4) The Lord Chief Justice must nominate persons who may become members of a disciplinary panel under paragraphs (1)(a), (2)(a) and 2(b).

(5) The Lord Chancellor must nominate with the agreement of the Lord Chief Justice persons who may become members of a disciplinary panel under paragraph (1)(b) and (2)(c).

(6) A person is ineligible for membership of a disciplinary panel if that person has had any previous involvement in the disciplinary process relating to the case that is being referred to the disciplinary panel.

(7) The office holder who has been nominated under paragraph (1)(a) or (2)(a) must chair the disciplinary panel and must exercise a casting vote if necessary.