How to complain about the Judicial Conduct Investigation Process
Welcome

I was appointed as the Judicial Appointments and Conduct Ombudsman on 26 January 2016. My role is to investigate complaints about the way in which ‘first tier’ bodies handled conduct complaints against judicial office holders and also complaints about the judicial appointments process.

This leaflet details my responsibilities concerning the handling of complaints about judicial conduct. I can investigate complaints from people who have made a complaint about a judicial office holder’s conduct to a first tier organisation. I can also investigate complaints made by judicial office holders who have been the subject of a public complaint about their conduct.

The role of the Judicial Appointments and Conduct Ombudsman was created by the Constitutional Reform Act 2005. I am independent of Government and of the Judiciary and look into complaints fairly and thoroughly, to determine whether or not there has been any maladministration in the process.

This leaflet provides detailed information about the sort of complaints I can look at and provides step-by-step guidance regarding the complaints process. Please take the time to read the leaflet carefully to see if I and my staff are the right people to assist you.

Paul Kernaghan CBE QPM
Ombudsman
If you feel that the Judicial Conduct Investigations Office (JCIO), a Tribunal President or a Magistrates’ Advisory Committee has failed to handle your complaint to them properly or fairly, the Ombudsman may be able to help you.

Before making a formal complaint to the Ombudsman you should read this leaflet carefully. If you are not sure what we do, or if you need special assistance, please speak to us on the telephone or contact us by e-mail to confirm that we are the correct organisation to deal with your complaint.

Our principles:

• We are independent of Government, the Ministry of Justice and the Judiciary.

• We strive to investigate complaints to the highest standard, dealing with them promptly, fairly and in accordance with our published procedures.

• We have an equal duty of care to the complainant and the person or organisation complained about.

• We value people and their diversity.

• We listen to people to understand their needs and tailor our service accordingly.

• We promote equal access to our service for all members of the community.
The Judicial Appointments and Conduct Ombudsman can consider concerns raised both by individuals that have made a complainant about a judicial office holder and also by judicial office holders themselves who have been the subject of a conduct complaint. I have an equal duty of care to both. I investigate how complaints were handled by the organisations listed below:

- The JCIO
- A Tribunal President
- A Magistrates’ Advisory Committee

If you have not made a complaint to one of these bodies, then you are not yet in a position to complain to the Ombudsman. The Ombudsman’s remit is to investigate the way in which one of these bodies handled your original complaint to them. The Ombudsman cannot look into complaints where your complaint is still ongoing with one of the above bodies unless your complaint is about delay.
Can the Ombudsman consider your complaint?

The Ombudsman can consider your complaint if:

• You have already made a complaint to the JCIO, a Tribunal President or a Magistrates’ Advisory Committee about the conduct of a judicial office holder.

• You are not happy with the process that the JCIO, a Tribunal President or a Magistrates’ Advisory Committee followed when handling your complaint.

• You make your complaint within 28 days of the final letter that you received from the JCIO, a Tribunal President or a Magistrates’ Advisory Committee.

If your complaint meets all the above criteria, please continue reading this booklet.

The Ombudsman cannot consider your complaint if:

• It is about a judge’s conduct and you have not yet complained to a first-tier body. Complaints about judicial office holder’s conduct must be made to the JCIO, a Tribunal President or a Magistrates’ Advisory Committee.

• Your complaint is about a judicial decision. You could consider seeking legal advice about whether you can appeal to a higher court. If you cannot afford a solicitor you could contact the Citizen’s Advice Bureau or your local law centre.

• Your complaint is about a decision made by the JCIO, a Tribunal President or a Magistrates’ Advisory Committee. The Ombudsman can only consider the processes that these bodies have followed.
How will the Ombudsman’s Office deal with your complaint?

Key steps:

• After the Ombudsman receives your complaint form, he will decide whether he is able to consider your complaint.

• If your complaint does not fall within the Ombudsman’s remit, a member of the Ombudsman’s staff will write to you to explain why.

• If the Ombudsman is able to consider your complaint further, your complaint file will be requested from the JCIO, Tribunal President or Magistrates’ Advisory Committee.

NB: Please note that you are asked to provide permission to disclose your complaint in the complaint form. Without this permission we cannot proceed with your complaint.

• Complaints that come within the Ombudsman’s remit receive a detailed initial evaluation to enable the Ombudsman to consider whether they warrant a full investigation. We refer to this as the “remit check stage”. Where it is determined that there is no likelihood of a finding of maladministration, the Ombudsman provides complainants with a preliminary investigation report, setting out the reasons why a complaint does not require a full investigation. This process takes no more than six weeks.

• If the Ombudsman determines that a full investigation is required, an Investigating Officer will conduct a thorough investigation of the complaint which may take several months. We will usually contact the relevant first-tier organisation and ask questions. We might also go back to the complainant to clarify certain issues.
• The investigating officer will then report to the Ombudsman, who will decide the outcome of your complaint. The Ombudsman will set out this decision in a report which must, under the Constitutional Reform Act, be sent in draft to the Lord Chancellor and Lord Chief Justice for their comments. The Ombudsman will consider any comments they have to make but is not compelled to alter his findings or decision.

• When the Lord Chancellor and the Lord Chief Justice’s response is received, the Ombudsman will finalise his report and send you a copy. The report will explain how the Ombudsman has determined your complaint.

• The report will also be sent to the Lord Chancellor and the Lord Chief Justice.
What action can the Ombudsman take if he finds that something has gone wrong with the handling of your original complaint?

The Ombudsman can:

- Set aside a decision made by the JCIO, Tribunal President or Magistrates’ Advisory Committee and direct that they look at the complaint again.
- Recommend that an investigation or determination should be considered by a Disciplinary Panel.
- Ask the JCIO, Tribunal President or Magistrates’ Advisory Committee to write to you and apologise for what went wrong.
- Recommend that changes are made in the way the JCIO, Tribunal Presidents or Magistrates’ Advisory Committees work in future to prevent the same thing happening again.
- Suggest payment of compensation for a loss which appears to the Ombudsman to have been suffered as a direct result of the mishandling of your complaint.

The Ombudsman cannot:

- Reprimand a judicial office holder.
- Re-open a Court/Tribunal case.
- Remove a judicial office holder from office.
- Enforce payment of compensation.
Before completing your complaint form you should be aware that there are some issues that the Ombudsman cannot investigate because he does not have the legal power to do so.

What sort of complaints can the Ombudsman look at?
The Ombudsman can look at whether the JCIO, Tribunal President or Magistrates’ Advisory Committee has failed to handle your complaint to them properly. The Ombudsman will need you to give a clear explanation of what the body you are complaining about did wrong.

The JCIO, Tribunal President, or Magistrates’ Advisory Committee took too long to investigate my complaint. Is this something the Ombudsman can look at?
Yes. The Ombudsman can look at complaints about delay by the JCIO, Tribunal President, or Magistrates’ Advisory Committee.

The JCIO, Tribunal President or Magistrates’ Advisory Committee dismissed my complaint because they said it related to judicial decision-making. Can the Ombudsman look at this?
Yes. The Ombudsman can look at whether the JCIO, Tribunal President or Magistrates’ Advisory Committee followed the correct processes in reaching their decision to dismiss your complaint. However, he cannot comment on whether their decision was correct or not.
Can the Ombudsman re-investigate my complaint about a judge’s behaviour?

No. The Ombudsman has no legal power to investigate complaints about the personal conduct of judges. This is the role of the JCIO, Tribunal President or Magistrates’ Advisory Committee. He can only consider whether the JCIO, Tribunal President or Magistrates’ Advisory Committee handled your complaint to them correctly.

Can the Ombudsman review the decision that the judge made in my court case?

No. The Ombudsman has no legal power to review a judge’s decision.

I have not yet received a decision from the JCIO, Tribunal President or Magistrates’ Advisory Committee. Can I still complain to the Ombudsman?

No. The complaint you raised with the JCIO, Tribunal President or Magistrates’ Advisory Committee must have been finalised before you complain to the Ombudsman. The only exception to this is if you wish to complain to the Ombudsman that your original complaint is taking too long to resolve.

I received a final letter from the JCIO, Tribunal President or Magistrates’ Advisory Committee two weeks ago. How long do I have before I must complain to the Ombudsman?

The Ombudsman will not normally investigate a complaint made more than 28 days after the date you have been notified that the body you wish to complain about has finished dealing with your complaint. Exceptionally, he may investigate a complaint made outside this time if he considers it appropriate to do so. This is entirely at his discretion and you will need to give reasons why you believe this is the case.
Are there other matters that the Ombudsman cannot look at?
Yes. The Ombudsman has no legal power to look at complaints about:

- Court staff (see www.gov.uk for court information and addresses).
- A barrister (please contact www.barcouncil.org.uk).
- A solicitor (please contact www.lawsociety.org.uk).
- The police (please contact www.ipcc.gov.uk)
- Any alleged criminal activity including corruption, for example, taking bribes (please visit your local police station).
• Once you have read this booklet if you have any questions about what the Ombudsman is able to do, please contact us:

Judicial Appointments and Conduct Ombudsman
9th Floor, The Tower
102 Petty France
London
SW1H 9AJ

T 020 3334 2900
E headofoffice@jaco.gsi.gov.uk

• To submit your complaint to the Ombudsman you must complete the complaint form attached to the back of this booklet.

• Please summarise your complaint on the complaint form. You may provide us with supporting documents if the space provided is insufficient.

• If you have access to the internet you can visit our website and complete the complaint form online. More information about our services can also be found on our website: www.judicialombudsman.gov.uk

• If you have a disability, if English is not your first language, or if you need advice on how to complete the complaint form, please contact us to find out how we can help you.
For further information, please contact us at:

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