



Judicial Conduct
Investigations Office

Annual Report 2018-19

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Contents

Introduction	4
Performance	6
Receipts	10
Breakdown of Complaint Outcomes	11
Disciplinary Action	12
Judicial Appointments and Conduct Ombudsman	13
Appendix: Data Sources and Tables	14

Introduction

We are pleased to introduce the 2018-19 report of the Judicial Conduct Investigations Office (JCIO).

Continuing the trend from last year, the number of complaints and enquiries fell in 2018-19 (to 1,672), but there was a slight rise in the number of sanctions (55).

Overall, the year can be characterised as one of transition. There was full rollout of a new digital case management system. Alongside delivering the new system, which will help us to provide a better service to users, we also looked carefully at our performance measures. We concluded that, following automation of some of our processes, our existing key performance indicators (KPIs) were no longer an accurate way of testing whether we are delivering a high-quality service. To that end, we introduced new KPIs.

Consequently, this year we are reporting on a mix of measures: 1, 2, 3, 4 and 5.¹ Next year, we anticipate being able to report on three

altogether: 2, 4 and 5.

Disappointingly, we did not meet our targets for the reporting year. Staff shortages have continued to have an impact on this year's performance. Alongside sustained efforts to recruit the necessary staff, however, the introduction of a range of measures including improved processes has resulted in improved performance in recent months. It remains a high priority to ensure continued improvement.

Alongside more appropriate KPIs, the team worked hard to find ways of improving how casework is handled; for example, the team conducted extensive testing on the digital casework system to improve the user experience, made changes to website content and identified ways to improve the clarity of correspondence. The team also undertook visits to courts and tribunals to improve understanding of the work of a range of judicial office holders and raise awareness about the role of the JCIO.

¹ KPI performance detailed on page 6.

Each year we have the privilege of meeting a number of international colleagues who are interested in the work of the JCIO. This year, we have discussed our work with those from Japan, Hungary, the United States and Uganda, to name but a few. Each discussion focuses our minds on the importance of the work we do in promoting public confidence in the judiciary through the advisory role we play in the discipline process.

It is now five years since the 2014 rules and regulations, which govern the way we operate, came into effect. We have recently agreed with the Lord Chief Justice and the Lord Chancellor that we will carry out a review of our statutory framework, which will commence shortly and draw on a range of expert voices and stakeholders. This is important work to identify opportunities to improve the conduct system and ensure it remains fit for purpose.

As ever, we are extremely grateful to our team for their hard work and commitment to providing a high-quality service for all those in contact with the JCIO, particularly through a period of staffing difficulty and as new staff have been trained. We acknowledge the work of the nominated judges, who fulfil a critical function in the conduct process in addition to the 'day job' of judging, having been appointed by the Lord Chief Justice to provide advice on complaints. We extend our sincere thanks to Lord Justice Bean, Mrs Justice Carr DBE, Mr Justice Cobb, Mr Justice Keehan, Lady Justice King DBE, Mr Justice Lavender and Mr Justice Nicol. We note also the work of disciplinary panels, comprised of two judicial members and two publicly appointed lay members, which are another crucial aspect of the conduct process. We extend our thanks to

the pool of lay members for their support and expertise.

Stephanie Hack and Joanna Otterburn

Joint Heads of the Judicial Conduct
Investigations Office

Performance

Action	Target	Performance 17-18	Performance 18-19
1. Respond to complaints within two working days of receipt	95%	89%	81%
2. Notify complainants within two weeks of receipt if a complaint falls outside our remit	90%	N/A	40%
3. Issue first substantive response to complaints within 15 working days of receipt	85%	66%	52%
4. Conclude complaints accepted for further consideration, including those which proceed to full investigation, within 20 weeks of receipt	85%	N/A	67%
5. Provide monthly updates to parties in ongoing investigations	100%	87%	N/A

We are disappointed to have fallen short of our targets despite the best efforts of the team in challenging circumstances. We experienced an unusual spike in complaints between April and June 2018 and knock-on effects were felt for approximately six months. Last year's trend in terms of staff shortages continued to affect performance with an average vacancy rate of three (20% of our headcount) throughout the reporting year.

To help move through the backlog of cases as efficiently as possible, process changes were introduced. These also had the benefit of improving the service provided to complainants and others involved in the system, which included implementing a swift standardised response to complaints falling outside the JCIO remit, to enable us to devote more resource to substantive cases, and taking a more robust approach to correspondence with complainants whose complaints have been rejected or dismissed.

Unfortunately, during the migration to a new digital case management system, we were not able to capture the data required to report on KPI 5. We have worked extensively with our IT supplier to enable the reporting function to measure the performance for the next reporting year.

Staffing

The JCIO has a full staffing complement of 16 and operated with an average of three vacant posts throughout the year.

Finance

The JCIO is not required to produce its own accounts because its expenditure forms part of the Judicial Office's resource accounts, which are subject to audit. The JCIO responsibly manages its public funding and adheres to the same financial governance requirements as the Judicial Office.

Fig 1: KPI 1 – Respond to complaints within two working days of receipt – 95% target

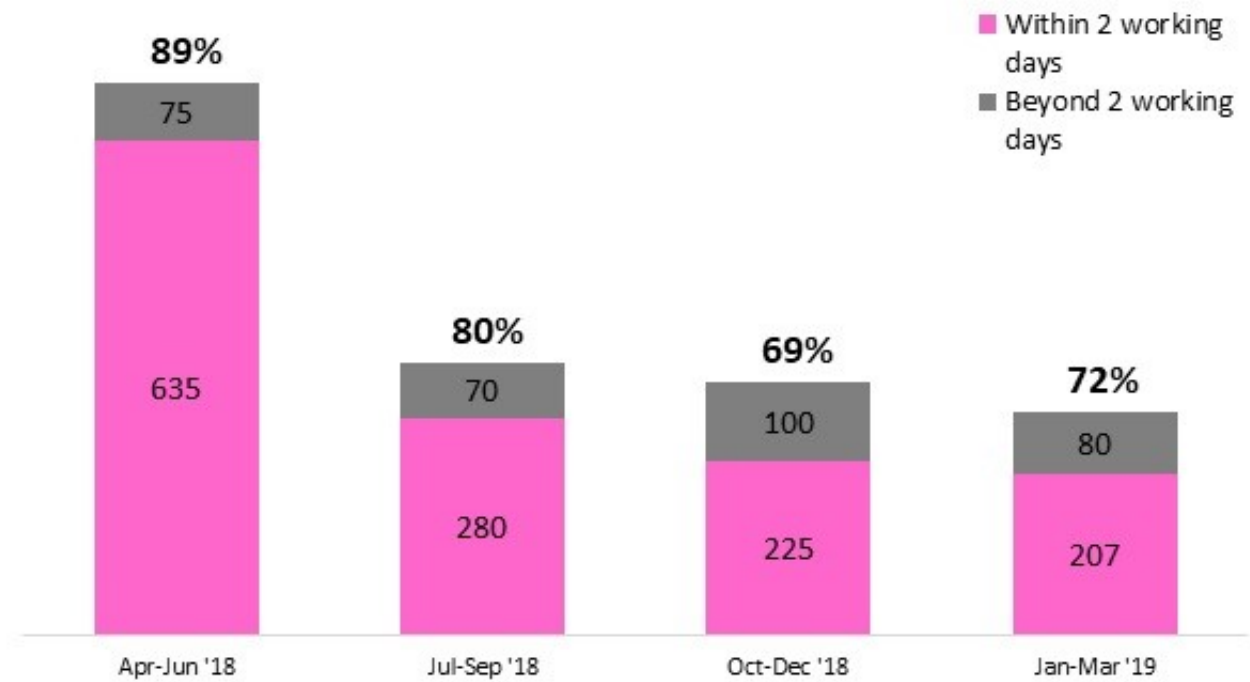


Fig 2: KPI 2 – Notify complainants within two weeks if a complaint falls outside our remit – 90% target

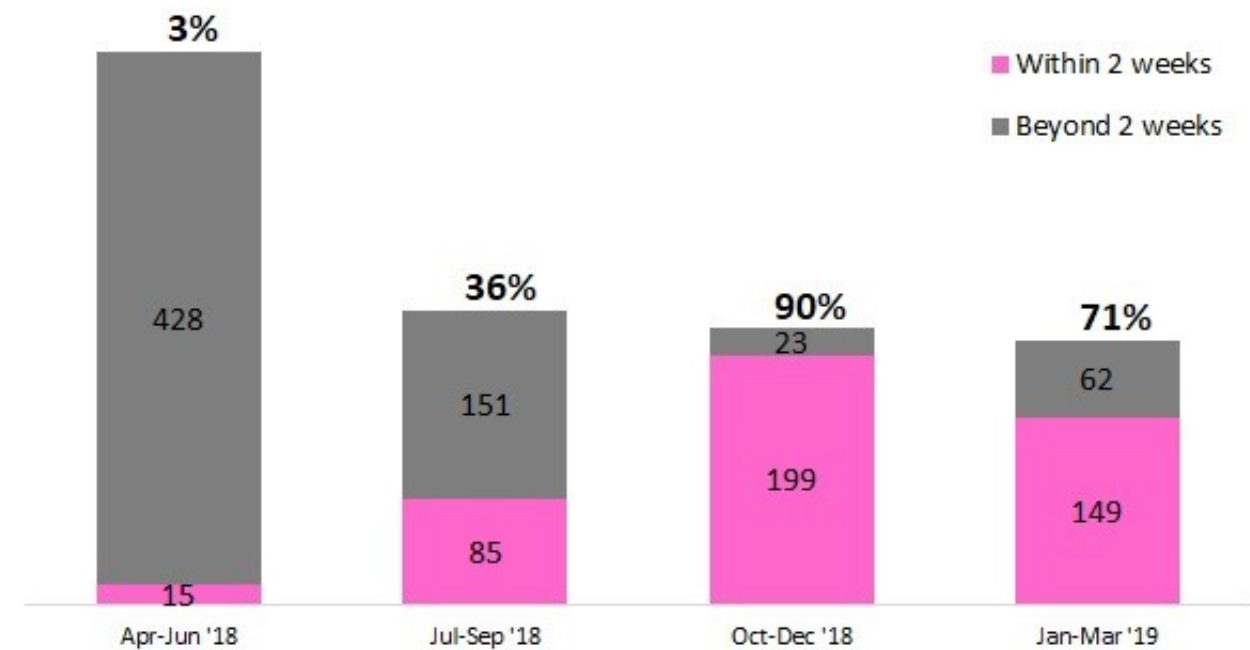


Fig 3: KPI 3 – Issue first substantive response to complaints within 15 working days of receipt – 85% target

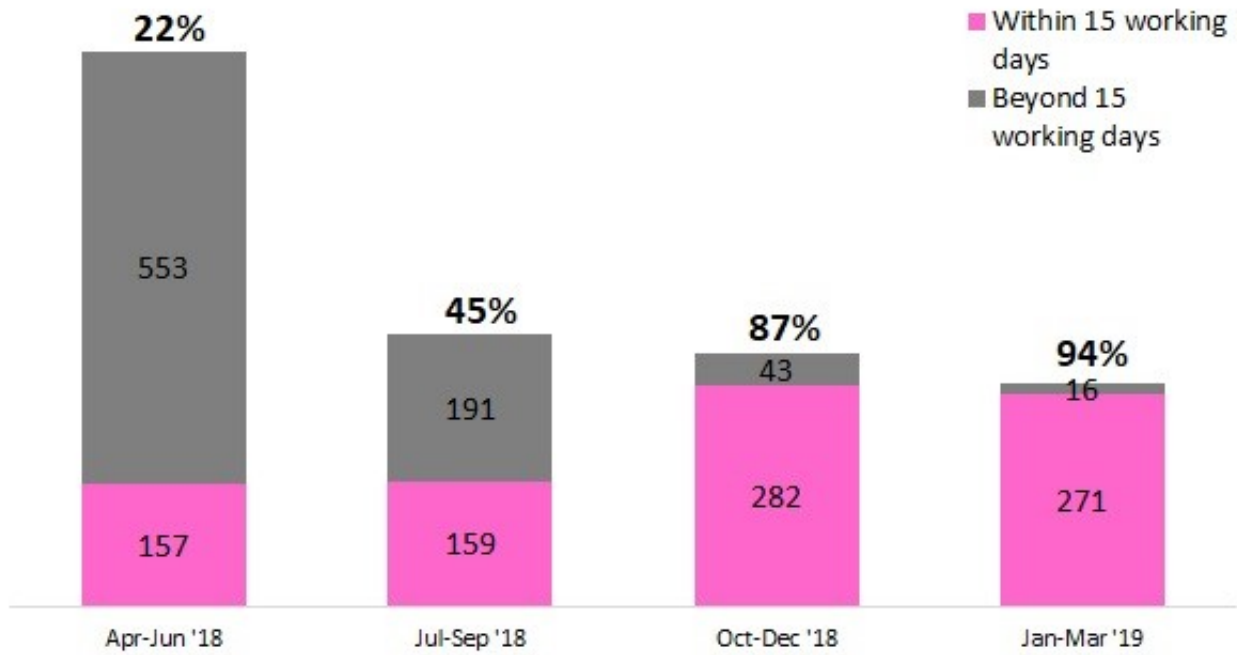


Fig 4: KPI 4 – Conclude complaints accepted for further consideration, including those which proceed to full investigation, within 20 weeks of receipt – 85% target

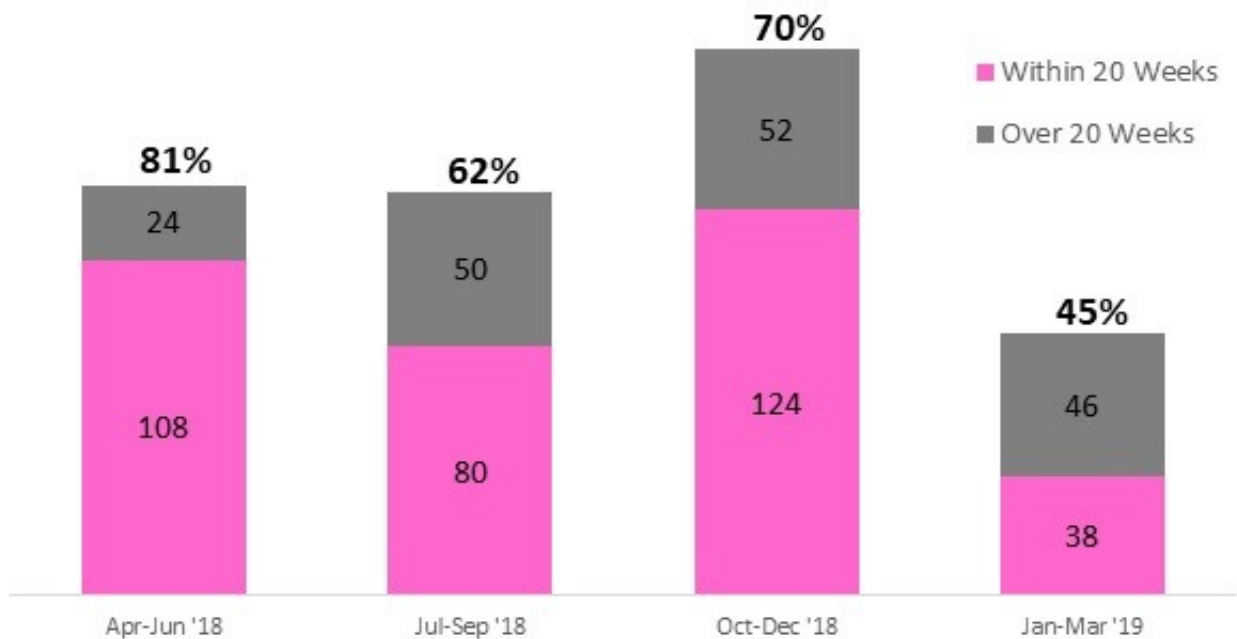
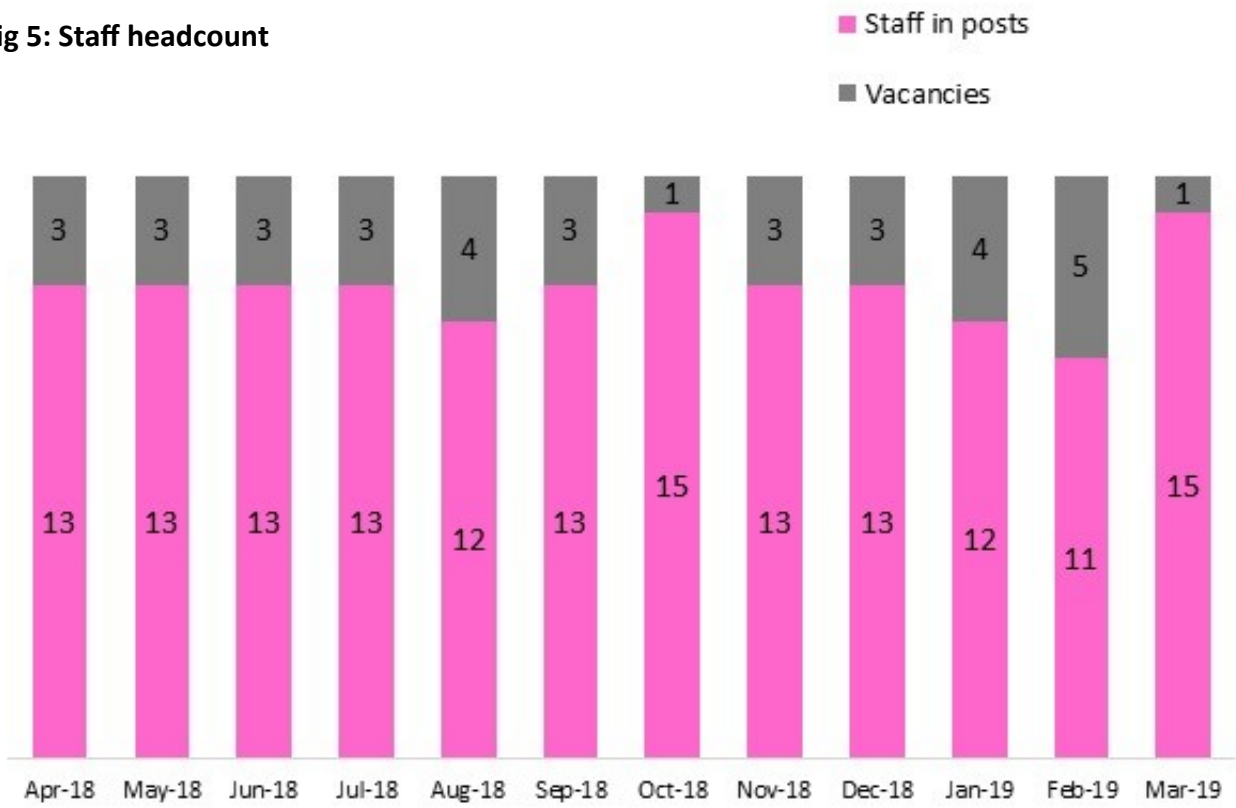
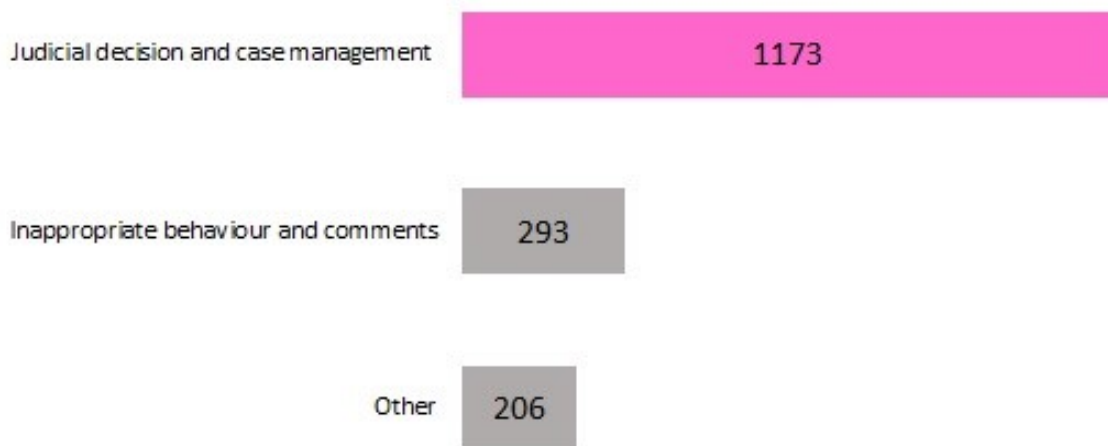


Fig 5: Staff headcount



Receipts

Fig 6: JCIO receipt categories and totals in 2018-19



As in previous years, the majority of complaints received were about judges' decisions or how judges managed cases. When responding to complaints outside our remit, we always explain why we cannot deal with the complaint and, where possible, suggest the appropriate route for the complainant to follow; for example, if a complaint is about a judge's decision, we explain that judges' decisions can only be challenged through the courts and inform the complainant that they may wish to consider seeking independent advice from a solicitor, law centre or Citizens Advice.

The second most common type of complaint received related to allegations of inappropriate behaviour. These types of complaints accounted for 18% of all complaints during 2018-19. Where a complaint appears to raise a question of potential misconduct, it is accepted for further consideration. It should be noted, however, that the substantial majority of such complaints are ultimately

found to be unsubstantiated and dismissed. Less than 3% of complaints result in a finding of misconduct.

A full breakdown of receipt categories and totals may be found in table 1.1 on page 14.

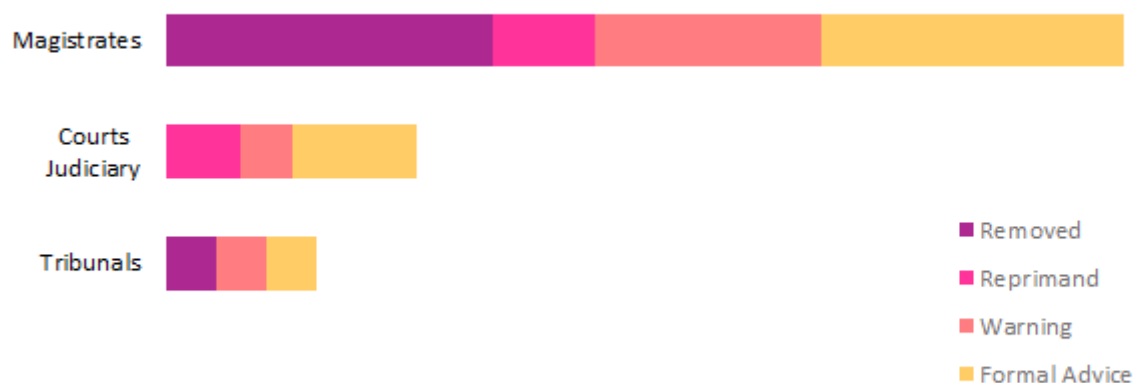
Breakdown of Complaint Outcomes

Total Disposals		1,895
Not accepted for Investigation		1,373
Rejected – Complaint does not contain an allegation of misconduct on the part of a named or identifiable person holding judicial office		1,293
Rejected – Rule 12 (Complaint is made out of time)		39
Rejected – Other		23
Complaint withdrawn (and did not make an allegation of misconduct that warranted investigation)		18
Dismissed		467
21(a) Complaint not adequately particularised		82
21(b) It is about a judicial decision or judicial case management, and raises no question of misconduct		103
21(c) The action complained of was not done, or caused to be done, by a person holding an office		_*
21(d) Complaint is vexatious		6
21(e) Complaint is without substance or, if substantiated, would not require disciplinary action		7
21(f) Even if true, it would not require any disciplinary action to be taken		117
21(g) It is untrue, mistaken or misconceived		123
21(h) It raises a matter which has already been dealt with, whether under these rules or otherwise, and does not present any material new evidence		_*
21(i) It is about a person who no longer holds an office		9
21(j) Complaint is about the private life of a judicial office holder and could not reasonably be considered to affect suitability to hold judicial office		_*
21(k) Complaint is about professional conduct, in a non-judicial capacity, of a judicial office holder and could not reasonably be considered to affect suitability to hold judicial office		_*
21(l) For any other reason it does not relate to misconduct by a person holding office		_*
41(b) Dismissed by nominated judge		8
Judicial office holder ceased to hold office		_*
Complaint not upheld by the Lord Chancellor and the Lord Chief Justice following an investigation		_*
Upheld		55

* Figures of 5 or fewer have not been disclosed.

Disciplinary Action

Fig 7: Disciplinary sanctions by judicial office in 2018-19



Only the Lord Chancellor and the Lord Chief Justice (or his judicial delegates) jointly can sanction a judicial office holder. The sanctions available are formal advice, formal warning, reprimand and removal.¹

In 2018-19, there were approximately 22,917 judicial office holders. A total of 55 cases resulted in a finding of misconduct and a disciplinary sanction, representing 0.2% of all judicial office holders.

The JCIO will normally publish a website statement when a disciplinary sanction has been issued to a judicial office holder. Statements about sanctions below removal are deleted after one year. Statements about removal are deleted after five years.

Judicial office holders in post as of 1 April 2019²

Court of Appeal	44
High Court & Others	244
Circuit Bench	1,543
District Bench	1,379
Tribunals Judges and Non-Legal Members	4,975
Magistrates	14,348
Coroners	384

¹ A senior judicial officer holder, such as a High Court Judge or a Lord Justice of Appeal, can only be removed if the Lord Chancellor moves an Address for their removal by both Houses of Parliament.

² Office holder figures have been derived from the Judicial Diversity Statistics 2019, details of which are provided in table 1.3 on page 15.

Judicial Appointments and Conduct Ombudsman

The Ombudsman determines how the JCIO, an advisory committee or a tribunal president has handled a complaint. In the event that the Ombudsman decides that a complaint has been mishandled, he may refer the matter back to the JCIO for re-investigation and/or recommend changes to procedure.

In 2018-19, the Ombudsman determined 51 complaints about the JCIO's handling of complaints. He upheld, or partially upheld, 15 complaints about the JCIO's handling of complaints. He upheld a further 4 complaints about cases referred to the JCIO following advisory committee investigations. This accounts for 1% of the complaints handled by the JCIO within the period.

Further information about the Judicial Appointments and Conduct Ombudsman can be found here:

<https://www.gov.uk/government/organisations/judicial-appointments-and-conduct-ombudsman>

Appendix: Data Sources and Tables

Data of JCIO receipts and disposals has been acquired from live case management systems and manually processed. As such, figures may be subject to a degree of error consistent with manual processing. Figures on the number of judicial office holders in post (see page 15) have been acquired from the Judicial Diversity Statistics 2019: <https://www.judiciary.uk/publications/judicial-diversity-statistics-2019-2/>.

1.1: Receipts

Category	Receipts	%
Judicial decision and case management	1,173	70%
Inappropriate behaviour and comments	293	18%
Judicial delay	35	2%
Not specified	112	7%
Conflict of Interest	21	1%
Failure to meet sitting requirements	17	1%
Criminal**	-*	<1%
Motoring offences	-*	<1%
Misuse of judicial status	-*	<1%
Civil proceedings	7	<1%
Financial fraud	-*	<1%
Total	1,672	100%

-* Figures of 5 or fewer have not been disclosed.

** This includes criminal allegations, charges and convictions.

1.2: Disciplinary Action

Office	Formal Advice	Warning	Reprimand	Removed
Magistrates	12	9	_*	13
Courts Judiciary	6	_*	_*	_*
Tribunals	_*	_*	_*	_*
Coroners	_*	_*	_*	_*
Total	20	13	7	15

_* Figures of 5 or fewer have not been disclosed.

With the exception of coroners, judicial office holder figures have been obtained from the Judicial Diversity Statistics 2019, available at: <https://www.judiciary.uk/publications/judicial-diversity-statistics-2019-2/>. Unless otherwise stated, figures are taken from table 1.1 of the 2019 diversity statistics tables.

1.3: Judicial Office Holder Figures by Appointment Name and JCIO Reporting Bench

Appointment Name	JCIO Reporting Bench	Total
Heads of Division	Court of Appeal	5
Lords Justices of Appeal	Court of Appeal	39
High Court Judges	High Court & Others	97
Deputy High Court Judge	High Court & Others	87
Judge Advocates, Deputy Judge Advocates	High Court & Others	6
Masters, Registrars, Costs Judges	High Court & Others	27
Deputy Masters, Deputy Registrars, Deputy Costs Judges	High Court & Others	27
Circuit Judges	Circuit Bench	670
Recorders	Circuit Bench	873
District Judges (County Courts)	District Bench	424
Deputy District Judges (County Courts)	District Bench	748
District Judges (Magistrates' Courts)	District Bench	127
Deputy District Judges (Magistrates' Courts)	District Bench	80
Tribunal Judges and Non-Legal Members*	Tribunal Judges and Non-Legal Members	4,975
Magistrates**	Magistrates	14,348
Coroners***	Coroners	384

Source: Judicial Diversity Statistics 2019, table 1.1.

*Source: Judicial Diversity Statistics 2019, table 2.1. Includes only those tribunals administered by HMCTS within the responsibilities of the Senior President of Tribunals.

**Source: Judicial Diversity Statistics 2019, table 3.

***Source: Office of the Chief Coroner.