



Judicial Conduct
Investigations Office

Annual Report 2019-20

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Introduction

I am pleased to introduce the 2019-20 Annual Report of the Judicial Conduct Investigations Office (“JCIO”). I became Head of the JCIO in February 2020. I have previously worked with the judiciary in various roles.

Towards the end of the 2019-20 reporting year, we began to experience the significant challenges that Covid-19 would come to pose for office-based teams. I have been impressed and proud to see how the JCIO team has risen to meet those challenges, working to provide the best possible service while adjusting to a lengthy period of remote working.

In 2019-20, the JCIO received 1,292 complaints. This was significantly fewer than last year (1,672). There was also a fall in the number of investigations which resulted in the Lord Chancellor and Lord Chief Justice (or his delegate in certain cases) issuing a disciplinary sanction: 42 compared to 55 in the previous year.

I am pleased to report that the team achieved two of its three key performance indicators (“KPIs”) (detailed on page 8). Performance for KPIs 1 and 2 improved significantly compared to last year.

We did not meet our third KPI target for providing monthly updates to the parties in ongoing complaints. Upon reflection, although we are disappointed by this aspect of our

performance, we have concluded that the 100% target we had set ourselves for this KPI was unrealistic. Page 8 contains information about the steps we are taking to address this issue.

I am glad to report that further development of our digital case management system (“CMS”) has enabled us to achieve our goal to become a ‘*digital by default*’ office. This proved to be a crucial step for the JCIO, enabling secure and effective remote working during the national lockdown. The improved CMS also enables managers to monitor and analyse the team’s performance better than ever before.

To assist the public, we have worked to improve the guidance on our website and the usability of our online complaints portal. In a second phase of work to enhance our online services, we have amalgamated these separate sites into a single, easy to use website.

Outreach is still an important way for the JCIO to increase awareness of its role. Over the last year, for example, the team produced leaflets explaining our remit and outlining the process for making a complaint, for distribution at courts nationwide. We also welcomed delegations from the Seychelles and Japan who were interested in learning about our work. We are pleased that the JCIO is seen as a yardstick for countries working to enhance their own systems of judicial discipline.

Another important part of the JCIO's work is to support an ongoing review of the judicial discipline system. The review, overseen by a senior judge-led working group, is examining all aspects of the system to ensure that allegations of misconduct are dealt with efficiently, fairly, and proportionately. The working group's recommendations will be published in a consultation paper next year.

Finally, I would like to thank the team at the JCIO for their hard work and professionalism during this extraordinary period. I would also like to take this opportunity to thank the nominated judges, investigating judges and disciplinary panel members whose work is vital to the effective functioning of the system.

Amy Shaw

Head of the Judicial Conduct Investigations Office

The Complaints Handling Process

The JCIO is an independent statutory body of civil servants formed in 2013 to support the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. We are based at the Royal Courts of Justice.

Our role is to consider complaints of misconduct on the part of judicial office-holders. Misconduct means how an office-holder has behaved personally, not how they have exercised their judicial powers. The vital principle of judicial independence means that such matters can only be challenged through the courts.

The process for considering complaints about misconduct is set down in statutory rules and regulations, which can be viewed on our website: <https://judicialconduct.judiciary.gov.uk/>

The JCIO's part in the process is to consider each complaint it receives and to determine whether further investigation is required. If a complaint does not raise a question of potential misconduct, we are obliged to reject it. Complaints may also be dismissed if, for example, they are not serious enough to warrant the Lord Chancellor and Lord Chief Justice taking disciplinary action.

If, following our consideration of a complaint and the enquiries that we have made, it appears that misconduct may have occurred, we refer the complaint to a nominated judge.

The Lord Chief Justice appoints nominated judges to make findings and recommendations on complaints of misconduct to him and the Lord Chancellor. Complaints which are particularly complex or serious may also be referred to an investigating judge or to a four-person disciplinary panel composed of two judicial office-holders and two lay persons.

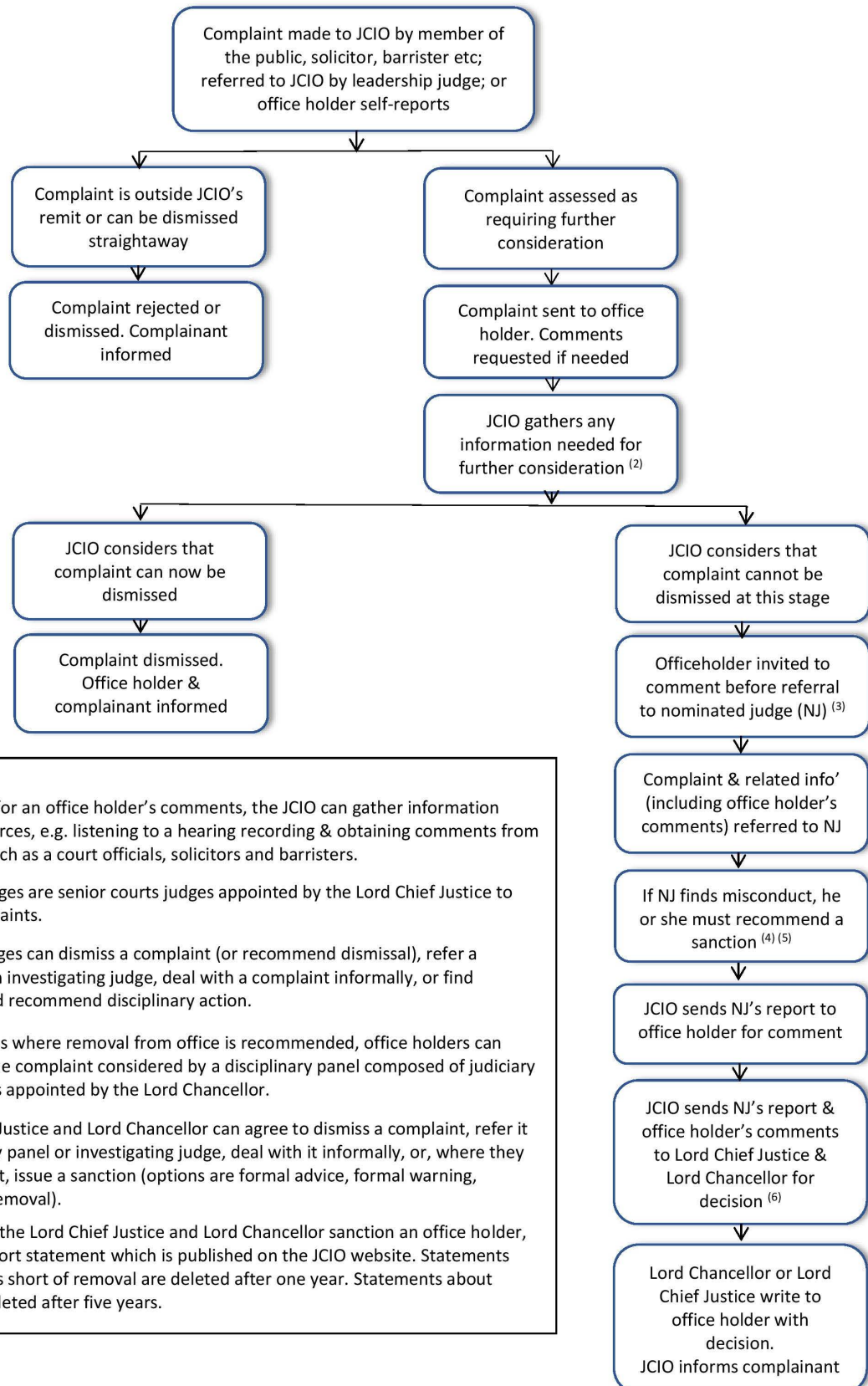
When the investigation process is complete, the JCIO refers complaints and all the relevant documentation to the Lord Chancellor and Lord Chief Justice who decide jointly whether misconduct has occurred and, if so, which of the sanctions available to them (formal advice, formal warning, reprimand, and removal from office) should be issued.

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

Fig 1. contains a diagram which provides an overview of the complaints handling process.

Overview of the Judicial Disciplinary Process

Fig 1. Judicial Disciplinary Process flowchart



Notes

- As well as asking for an office holder's comments, the JCIO can gather information from other sources, e.g. listening to a hearing recording & obtaining comments from third parties such as court officials, solicitors and barristers.
- Nominated judges are senior courts judges appointed by the Lord Chief Justice to consider complaints.
- Nominated judges can dismiss a complaint (or recommend dismissal), refer a complaint to an investigating judge, deal with a complaint informally, or find misconduct and recommend disciplinary action.
- In the rare cases where removal from office is recommended, office holders can elect to have the complaint considered by a disciplinary panel composed of judiciary and lay persons appointed by the Lord Chancellor.
- The Lord Chief Justice and Lord Chancellor can agree to dismiss a complaint, refer it to a disciplinary panel or investigating judge, deal with it informally, or, where they find misconduct, issue a sanction (options are formal advice, formal warning, reprimand or removal).
- In cases where the Lord Chief Justice and Lord Chancellor sanction an office holder, they agree a short statement which is published on the JCIO website. Statements about sanctions short of removal are deleted after one year. Statements about removal are deleted after five years.

Performance

Fig 2. KPI Performance

Action	Target	Performance 18-19	Performance 19-20
1. Notify complainants within two weeks of receipt if a complaint falls outside our remit	90%	40%	90%
2. Conclude complaints accepted for further consideration, including those which proceed to full investigation, within 20 weeks of receipt	85%	67%	93%
3. Provide monthly updates to parties in ongoing investigations	100%	N/A	82%

Performance

We use key performance indicators (“KPIs”) to monitor our performance on an ongoing basis and to ensure that we provide a high-quality service.

The table above shows our performance against our three KPIs during the 2019-20 reporting year. We are pleased to have met our target for KPI 1 and exceeded our target for KPI 2.

On reflection, we concluded that our self-imposed target of 100% for KPI 3 was unrealistic. This is because it does not allow for unavoidable situations such as staff illness, which can lead to a delayed update. However, such situations do not account fully for the 82% performance we achieved in 2019-20. We need to do better.

After careful consideration, we have decided

that our target for KPI 3 from 2020-21 will be 95%. To meet this challenging, but realistic target we will step up our efforts to ensure that we keep parties to ongoing complaints informed of progress. We have already taken steps towards achieving the new target. This will continue to be one of our performance priorities in the coming year.

Staffing

The JCIO has a staffing complement of 15. We operated with an average of two vacant posts throughout the reporting 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 manages its public funding responsibly and adheres to the same financial governance requirements as the Judicial Office.

Receipts

Fig 3. Receipts received by the JCIO in 2019/20

Category	Receipts	%
Judicial decision and case management	851	66%
Inappropriate behaviour and comments	325	25%
Judicial delay	33	3%
Not specified	22	2%
Conflict of Interest	26	2%
Failure to meet sitting requirements	16	1%
Criminal**	-*	<1%
Motoring offences	-*	<1%
Misuse of judicial status	11	<1%
Civil proceedings	-*	<1%
Financial fraud	-*	<1%
Total	1,292	100%

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

** This includes criminal allegations, charges and convictions.

As in previous years, most of the complaints we received were about judges' decisions or how judges managed cases, and were therefore either rejected or dismissed. When responding to such complaints, we always explain why we cannot deal with them and, where possible, suggest the proper route for the complainant to follow. If, for example, a complaint is about a judge's decision, we explain that such decisions can only be challenged through the courts and we 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 we received related to allegations of inappropriate behaviour of some form. Where a complaint raises a question of potential misconduct, we accept it for further consideration. However, most of these complaints are found to be unsubstantiated or, even if true, insufficiently serious to require disciplinary action to be taken. In the 2019-20 reporting year, fewer than 3% of all the complaints we received resulted in a finding of misconduct.

A full breakdown of receipt categories and totals appears in table 1.1 on page 13.

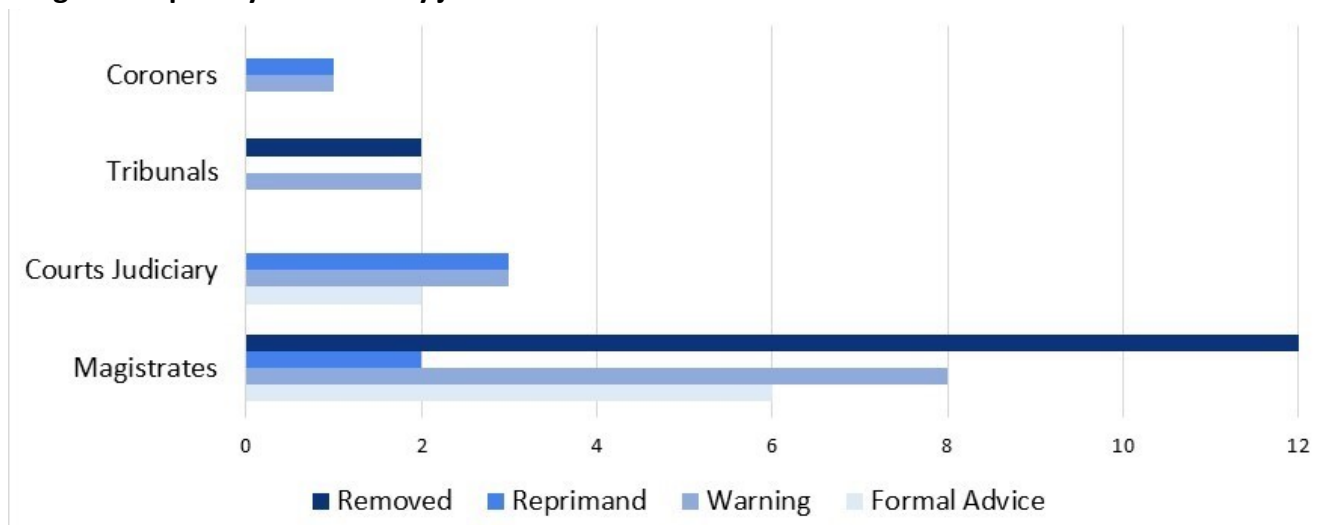
Breakdown of Complaint Outcomes

Total Disposals		1183
Not accepted for Investigation		
		683
	Rejected – Complaint does not contain an allegation of misconduct on the part of a named or identifiable person holding judicial office	643
	Rejected – Rule 12 (Complaint is made out of time)	30
	Complaint withdrawn (and did not make an allegation of misconduct that warranted investigation)	10
Dismissed		
		458
21(a)	Complaint not adequately particularised	105
21(b)	It is about a judicial decision or judicial case management, and raises no question of misconduct	135
21(c)	The action complained of was not done, or caused to be done, by a person holding an office	13
21(d)	Complaint is vexatious	11
21(e)	Complaint is without substance or, if substantiated, would not require disciplinary action	11
21(f)	Even if true, it would not require any disciplinary action to be taken	71
21(g)	It is untrue, mistaken or misconceived	97
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	.*
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	.*
	Judicial office-holder ceased to hold office	.*
	Complaint not upheld by the Lord Chancellor and the Lord Chief Justice following an investigation	.*
Upheld		
		42

* Figures of 5 or fewer have not been disclosed.

Disciplinary Action

Fig 4. Disciplinary sanctions by judicial office in 2019-20



Only the Lord Chancellor and the Lord Chief Justice (or his judicial delegates)¹ can, by joint agreement, sanction a judicial office-holder. The sanctions available are formal advice, formal warning, reprimand, and removal.²

In 2019-20, there were approximately 22,000 judicial office-holders. A total of 42 cases resulted in a finding of misconduct and a disciplinary sanction, representing 0.2% of all judicial office-holders.

Judicial office-holders in post as of 1 April 2020³

Court of Appeal	39
High Court & Others	268
Circuit Bench	669
District Bench	1,319
Tribunals Judges and Non-Legal Members	5,107
Magistrates	13,177
Coroners	380

¹ The Senior President of Tribunals has delegated authority to consider complaints about judicial office-holders where the recommendation is either formal advice or formal warning. Mrs Justice Cheema-Grubb DBE has delegated authority for complaints about magistrates where the recommendation is formal advice, formal warning or reprimand.

² 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.

³ Office-holder figures have been derived from the Diversity of the judiciary 2020 statistics, details of which are provided in table 1.2 on page 14.

Judicial Appointments and Conduct Ombudsman

The Judicial Appointments and Conduct Ombudsman is an independent authority who is responsible for reviewing how complaints of misconduct have been handled. If the Ombudsman decides that the JCIO has mishandled a complaint, he may refer the matter back to us for re-investigation and/or recommend changes to procedures.

In 2019-20, the Ombudsman determined 45 complaints about the JCIO's handling of complaints. He upheld, or partially upheld, 15 of those complaints. This represents 1% of the complaints we received during the reporting year.

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 14) have been acquired from the Diversity of the judiciary 2020 statistics: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>

1.1: Disciplinary Action

Office	Formal Advice	Formal Warning	Reprimand	Removed
Magistrates	6	8	-*	12
Courts Judiciary	-*	-*	-*	-*
Tribunals	-*	-*	-*	-*
Coroners	-*	-*	-*	-*
Total	8	14	6	14

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

With the exception of coroners, judicial office-holder figures have been obtained from the Diversity of the judiciary 2020 statistics available at: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>

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

Appointment Name	JCIO Reporting Bench	Total
Heads of Division	Court of Appeal	5
Lord/Lady Justices of Appeal	Court of Appeal	39
High Court Judges	High Court & Others	99
Deputy High Court Judge	High Court & Others	111
Judge Advocates, Deputy Judge Advocates	High Court & Others	7
Masters, Registrars, Costs Judges	High Court & Others	29
Deputy Masters, Deputy Registrars, Deputy Costs Judges	High Court & Others	22
Circuit Judges	Circuit Bench	669
Recorders	Circuit Bench	874
District Judges (County Courts)	District Bench	419
Deputy District Judges (County Courts)	District Bench	683
District Judges (Magistrates' Courts)	District Bench	131
Deputy District Judges (Magistrates' Courts)	District Bench	86
Tribunal Judges and Non-Legal Members	Tribunal Judges and	5,107
Magistrates*	Magistrates	13,177
Coroners**	Coroners	380

Source: Diversity of the judiciary 2020 statistics, table 3.1.

*Source: Diversity of the judiciary 2020 statistics, table 3.5

**Source: Office of the Chief Coroner.