



Judicial Conduct
Investigations Office

Annual Report 2017-18

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Introduction

The Judicial Conduct Investigations Office (JCIO) is committed to promoting public confidence in the judiciary through the advisory role it plays in the judicial discipline process. In 2017-18, the JCIO received 2,147 complaints, a slight increase from the previous year; 39 investigations resulted in the Lord Chancellor and the Lord Chief Justice, or his delegate in certain cases, deciding jointly to take disciplinary action.

It is vital that the JCIO continues to raise awareness of the judicial discipline process, to ensure that those who wish to make a complaint know how to do so, and the public and judicial office holders retain confidence in the process. In addition, the JCIO team constantly looks to improve its processes to provide a better service. With this in mind, over the last year the JCIO undertook a transformative project to develop and implement a digital complaints portal (external-facing) and new internal case

management system.

The recent launch of the portal has immediately made the JCIO's work more accessible to the public, helping people to understand better how the conduct system works and, if need be, how to make a complaint. The portal also matches the expectations of many of our users, whose preference is to work digitally. Like the portal, the new internal case management system will increase efficiency in the JCIO's handling of complaints, and enable the team to monitor and respond more easily to trends in terms of allocating resources. Importantly, it will also transform the JCIO into a paperless office, a genuine digital workplace, something all of the team are excited about.

Outreach work is another important way in which the JCIO team helps others to understand its processes. Over the past year the JCIO team has, for example, provided

training for tribunals members, met with judicial associations, and provided an outline of our work to a delegation from Indonesia.

2017-18 saw a high turnover of staff in the JCIO. Understandably, this has been a challenging time, which is reflected in the JCIO missing two of its three key performance indicators for the year. In managing these staff shortages, it was important that we did not prioritise meeting timing targets over the quality of the JCIO's work. To that end, we would particularly thank the team for their perseverance, hard work and commitment to upholding the integrity of the investigatory process throughout a challenging year. The team has worked hard to fill vacancies; thanks to their efforts, the JCIO should return to normal staffing numbers soon, and return to the consistently high levels of performance seen in previous years.

In addition to our committed staff, the judicial conduct system is dependent on the hard work and dedication of a number of other actors. We wish to highlight here the work of two: nominated judges and disciplinary panel members.

A nominated judge is a senior judicial office holder appointed by the Lord Chief Justice to provide advice on complaints. Nominated judges play a crucial role in the judicial discipline process. The current nominated judges are Lord Justice Bean, Lady Justice King DBE, Mrs Justice Elisabeth Laing DBE, Mr Justice Cobb, Mrs Justice Carr DBE, Mr Justice Nicol, Mr Justice Keehan and Mr Justice Lavender. We are grateful to the nominated judges for the time they set aside from their

heavy workloads to support the disciplinary process.

Disciplinary panels are another critical aspect of the conduct process, comprised of two judicial members and two publicly appointed lay members. We were pleased to see the reappointment of the JCIO's pool of lay members in the last year, and would like to thank the lay members for the invaluable experience and knowledge they contribute to the work of the office.

2018-19 promises to be a year of transition, with the office seeing through its planned restructure and embedding new digital ways of working. We look forward to seeing how these key areas of work improve the JCIO's service.

Stephanie Hack and Joanna Otterburn

Joint Heads of the Judicial Conduct Investigations Office

Performance

Action	Target	Performance 16-17	Performance 17-18
Respond to complaints within two working days of receipt	95%	98%	89%
Issue first substantive response to complaints within 15 working days of receipt	85%	93%	66%
Provide monthly updates to parties in ongoing investigations	85%	88%	87%

The JCIO has three key performance indicators (KPIs), which measure certain aspects of its casework. While the JCIO met its target in respect of providing monthly updates to parties in ongoing investigations, it failed to meet its targets in respect of acknowledging complaints within two working days of receipt and issuing a first substantive response to complaints within 15 working days of receipt.

We are very disappointed with this drop in performance, particularly since the team has worked exceptionally hard over the past year. We attribute the drop to the significant staffing shortages the JCIO experienced throughout the year. We have continuously looked for ways to improve the JCIO's handling of casework; for example, in the past year the JCIO acquired new software that enables caseworkers to collate evidence more clearly when submitting a case to the Lord Chancellor and the Lord Chief Justice for their joint decision.

The introduction of the digital complaints portal will affect how the JCIO measures performance in the future, because it is likely that the portal will auto-generate the majority of complaint acknowledgements and monthly updates. Consequently, the JCIO will be reviewing its KPIs this year to ensure that it is measuring performance in the right areas.

Staffing

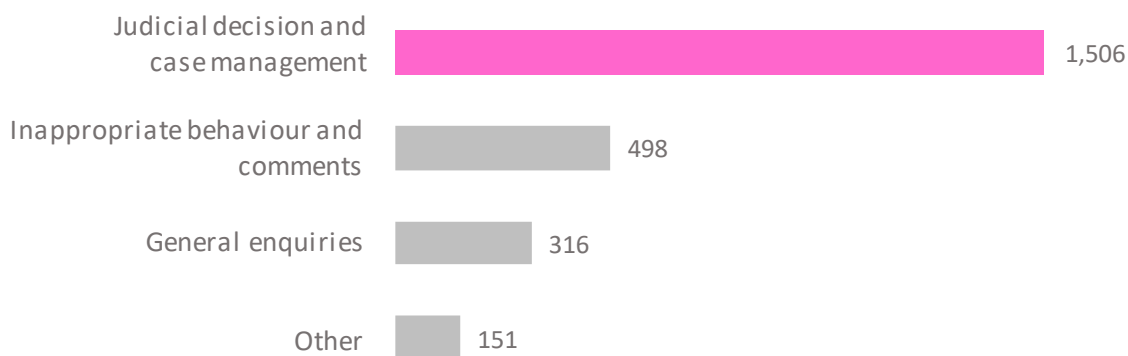
The JCIO has a full staffing complement of 15. The JCIO was operating with four vacant posts at the end of the reporting period.

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.

Receipts

Fig 1: JCIO receipt categories and totals in 2017-18



As in previous years, the most common receipt category is complaints about judicial decision and case management. Despite the JCIO's ongoing efforts to increase awareness of its remit, many complainants continue to mistake the judicial discipline process as an alternative method of appeal. The increased signposting on the digital complaints portal will hopefully direct those who wish to challenge a judicial decision to the courts and tribunals, which administer the appeal process.

Nonetheless, the JCIO still receives a large number of complaints that can be dealt with by the office as allegations of potential misconduct. The majority of these complaints are categorised as 'Inappropriate behaviour and comments'.

Outside of complaints, the JCIO receives a substantial number of general enquiries and, to a much lesser extent, ministerial correspondence. A full breakdown of receipt

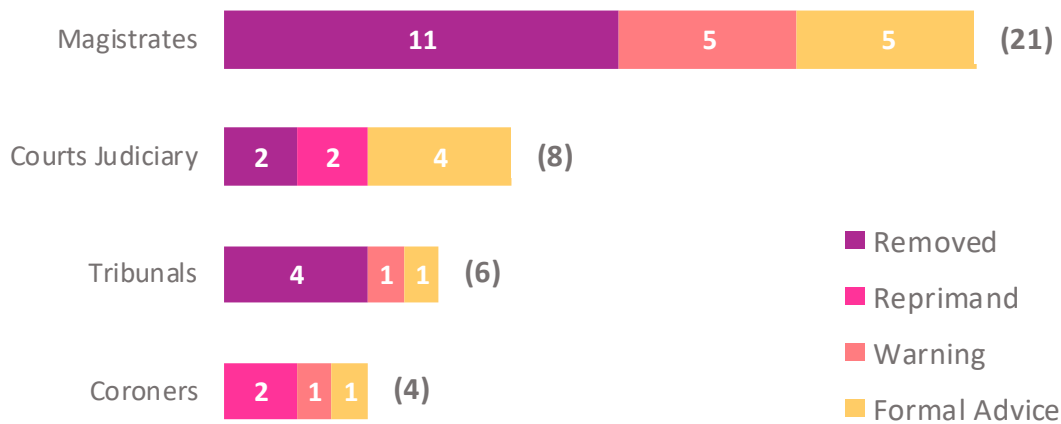
categories and totals may be found in table 1.1 on page 11.

Breakdown of Complaint Outcomes

Total Disposals		2,009
Not accepted for Investigation		1,435
Rejected - Complaint does not contain an allegation of misconduct on the part of a named or identifiable person holding judicial office		1,312
Rejected - Rule 12 (Complaint is made out of time)		74
Rejected - Other		38
Complaint withdrawn (and did not make an allegation of misconduct that warranted investigation)		11
Dismissed		535
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		57
21(c) The action complained of was not done, or caused to be done, by a person holding an office		18
21(d) Complaint is vexatious		42
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		206
21(g) It is untrue, mistaken or misconceived		84
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		8
21(i) It is about a person who no longer holds an office		11
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		1
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		5
21(l) For any other reason it does not relate to misconduct by a person holding office		1
41(b) Dismissed by nominated judge		2
Judicial office holder ceased to hold office		5
Complaint not upheld by the Lord Chancellor and Lord Chief Justice following an investigation		2
Upheld		39

Disciplinary Action

Fig 2: Disciplinary sanctions by judicial office in 2017-18



Only the Lord Chancellor and the Lord Chief Justice may sanction a judicial office holder. The sanctions a judicial office holder may receive are: formal advice, formal warning, reprimand and removal.² In 2017-18, 39 cases resulted in the Lord Chancellor and the Lord Chief Justice taking disciplinary action. This figure represents less than 0.2% of all judicial office holders.

Of the 17 removals from office, 12 were dealt with under the summary process. This process enables the Lord Chancellor and the Lord Chief Justice to consider removing a judicial office holder without further investigation in a limited number of circumstances, some of which are criminal convictions, bankruptcy and failure to meet sitting requirements without reasonable excuse.

Judicial office holders in post as of 1 April 2018¹

Court of Appeal	43
High Court & Others	232
Circuit Bench	1,490
District Bench	1,213
Tribunals Judges and Non-Legal Members	4,825
Magistrates	15,003
Coroners	380

¹ Office holder figures have been derived from the Judicial Diversity Statistics 2018, details of which are provided in table 1.3 on page 12.

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.

Judicial Appointments and Conduct Ombudsman

Part of the Ombudsman's role is to determine complaints about how the JCIO, an advisory committee or a tribunal president has handled a complaint about a judicial office holder. If the Ombudsman decides that the JCIO has mishandled a complaint, he may set aside the decision and refer the complaint back to the JCIO for re-investigation and/or recommend other redress.

In 2017-18, the Ombudsman determined 173 complaints about the JCIO's handling of complaints. He upheld, or partially upheld, 7 complaints, which was less than 1% of the complaints the JCIO handled during this period.

Further information about the Ombudsman's role, including his latest annual report, can be found here: 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 9) have been acquired from the Judicial Diversity Statistics 2018: <https://www.judiciary.uk/publications/judicial-diversity-statistics-2018/>.

1.1: Receipts

Category	Receipts	%
Judicial decision and case management	1,506	61%
Inappropriate behaviour and comments	498	20%
General enquiries**	316	13%
Judicial delay	55	2%
Not specified	42	2%
Conflict of Interest	15	1%
Failure to meet sitting requirements	10	<1%
Criminal*	9	<1%
Ministerial correspondence**	8	<1%
Motoring offences	5	<1%
Misuse of judicial status	4	<1%
Civil proceedings	3	<1%
Financial fraud	0	<1%
Total	2,471	100%

*This includes criminal allegations, charges and convictions.

**These are receipts, but not complaints.

1.2 Disciplinary Action

Office	Formal Advice	Warning	Reprimand	Removed
Magistrates	5	5	0	11
Courts Judiciary	4	0	2	2
Tribunals	1	1	0	4
Coroners	1	1	2	0
Total	11	7	4	17

With the exception of coroners, judicial office holder figures have been obtained from the Judicial Diversity Statistics 2018, available at: <https://www.judiciary.uk/publications/judicial-diversity-statistics-2018/>. Unless otherwise stated, figures are taken from table 1.1 of the 2018 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	38
High Court Judges	High Court & Others	94
Deputy High Court Judge	High Court & Others	73
Judge Advocates, Deputy Judge Advocates	High Court & Others	6
Masters, Registrars, Costs Judges	High Court & Others	26
Deputy Masters, Deputy Registrars, Deputy Costs Judges	High Court & Others	33
Circuit Judges	Circuit Bench	660
Recorders	Circuit Bench	830
District Judges (County Courts)	District Bench	398
Deputy District Judges (County Courts)	District Bench	583
District Judges (Magistrates' Courts)	District Bench	140
Deputy District Judges (Magistrates' Courts)	District Bench	92
Tribunal Judges and Non-Legal Members*	Tribunal Judges and Non-Legal Members	4,825
Magistrates**	Magistrates	15,003
Coroners***	Coroners	380

*Source: Judicial Diversity Statistics 2018, table 2.2. Includes only those tribunals administered by HMCTS within the responsibilities of the Senior President of the Tribunals.

**Source: Judicial Diversity Statistics 2018, table 3.

***Source: Office of the Chief Coroner.