



Lord Chief Justice's Office

The Conduct of Judicial Officers – Making a Complaint

Code of Practice

Issued by the Lord Chief Justice under

Section 16 of the Justice (Northern Ireland) Act 2002¹

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¹ Annex A

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Foreword from the Lord Chief Justice

By the Right Honourable Sir Declan Morgan, Lord Chief Justice for Northern Ireland

As Chief Justice, the importance of an effective Statement of Ethics and Code of Practice for judges has always been of great importance to me. Taken together, they encourage in the judiciary best practice in ethical conduct, deter unethical behaviour, and deal robustly with behaviour which falls short of expectations. My judicial colleagues and I serve the public. Public trust and confidence in our work is key and therefore maintaining high standards of judicial conduct is vital. Having a complaints regime that will ensure due process, dealing fairly with both those who complain and those who are subject to complaint, is essential in my view. Having a robust complaints system that deals effectively with all allegations is in the interests of not only those who engage it and are subject to it but also wider society.

Following a detailed review of the Code of Practice² and a targeted consultation process with key stakeholders in 2020, the Code has been revised. Many of the review recommendations and consultation responses have been incorporated in this issue of the Code. The type, nature and classification of complaints is defined. The investigative process is set out, details are given of how such matters are dealt with and information regarding public availability of material is provided.

It is my hope that this readily accessible Code will assist those who come into contact with the judiciary and judges themselves, in contributing to ensuring that the highest standards of probity and integrity are maintained in the exercise of judicial function.

² The review was carried out by Robin Ramsey and Paul Gill, NI Assembly, whose assistance was appreciated by the Lord Chief Justice.

PURPOSE

In every democratic society the importance of respect for the rule of law, and the role of the judges in upholding that respect cannot be taken for granted.

The Chief Justice publishes this Code of Practice to set out the process for handling complaints against a holder of judicial office, as required by Section 16 of the Justice (Northern Ireland) Act 2002. This Code of Practice seeks:

- (i) To uphold public confidence in the administration of justice;
- (ii) To enhance public respect for the institution of the judiciary;
- (iii) To ensure the highest standards of integrity among judicial officers and the judiciary; and
- (iv) To improve public accessibility to the complaints process.

Guiding Principles

- Complaints will be dealt with fairly, honestly, consistently, effectively and without discrimination or regard to any irrelevant factor.
- Complaints will be dealt with confidentially.
- Key targets for handling complaints are summarised in Annex D.
- The emphasis will be on resolving complaints informally, where appropriate.
- Complainants and those complained about will be kept informed of the progress of the investigation into the complaint.
- Complainants with a disability, whose first language is not English, who have poor reading and writing skills or any other difficulty with communication, will be given assistance to make sure that they are able to take part fully in the complaints process.
- The complaints process will be reviewed regularly.
- An annual report will be prepared by the complaints officer for the Chief Justice.

1. Definitions

The Act - The Justice (Northern Ireland) Act 2002 (as amended).

Complaints Officer - member of staff within the Chief Justice's Office or the office of a Tribunal President/Chair/Chair responsible for investigating a complaint.

Complaints Tribunal - A tribunal established under Part 8 of this Code and in accordance with section 16 of the Act.

Judicial Officer - A person holding any of the protected judicial offices listed in Annex B.

- Judge - A judicial officer whose office is listed in Part 1 of Annex B.³
- Tribunal Member - A judicial officer whose office is listed in Part 2 of Annex B.⁴

Statutory Tribunal - A tribunal established under sections 7 and 8 of the Act for considering removal of a judicial officer.

³ This includes the President or Chair of a tribunal and members of those tribunals that have no President or Chair.

⁴ This includes members of those tribunals that have a President or Chair.

2. Remit of the Complaints System

2.1 This Code of Practice applies to complaints made from 3 April 2006 against all holders of protected judicial office, as defined in section 2 of the Act.⁵ A full list of these offices is included at Annex B.

2.2 The Chief Justice may delegate responsibility for determining complaints about the conduct of judicial officers. If he or she does so, it will be to another judicial officer, which may include retired judicial officers. The nominated judge will be of a higher rank than the judicial officer about whom the complaint has been made. The nominated judge will be a High Court judge for all complaints in respect of judicial officers below the High Court tier. Specialised input may be sought if necessary. Elected representatives such as the Minister of Justice and other Members of the Legislative Assembly have no authority to address complaints about judicial office-holders. Correspondence to their offices about judicial complaints will be transferred to the Chief Justice's office.

2.3 **Complaints about a judicial decision in a case or its final outcome cannot be considered because these complaints are outside the remit of the Code. Similarly, complaints about the reasons given in a judicial decision cannot be considered.**

Judicial decisions and the reasons behind those decisions can only be challenged through legal means. Anyone wishing to challenge a judicial decision may decide to seek legal advice. The complaints officer cannot provide legal advice. For example, a complainant may complain that the judge was biased against him/her. A complaint like this would not fall within the remit of the Code because it is a legal point. However, it may be grounds for an appeal and the

⁵ This Code may or may not be applied where the complaint is made by one judicial office holder against another. The handling of such cases will be determined by the Chief Justice.

complainant may wish to seek legal advice. **It is not the purpose of this Code to re-open a complainant's case.**

The complaints officer **can** investigate:

- The use of racist, sexist or offensive language;
- Insensitive behaviour, for example towards a vulnerable witness or a member of a minority community;
- Rudeness to court users;
- Inappropriate remarks in court;
- Not paying attention in court;
- Rudeness to a member of the public at an official function;
- Inappropriate remarks in a judicial speech;
- Inappropriate use of social media;
- Misusing judicial status for personal gain or advantage;
- Any other behaviour likely to bring the judiciary into disrepute.

The complaints officer **cannot** investigate:

- A judge's decision or order;
- Perceived bias in a judge's decision-making;
- A judge allowing one party to speak for longer than another;
- A judge refusing to allow a witness to give evidence or admit certain documents;
- A judge appearing to react more favourably to one person's evidence than another's;
- A judge saying that he or she does not believe a person's evidence, questioning a person's credibility or criticising a person's actions;
- A judge making an error of law or procedure;
- A judge expressing opinions about issues related to a case they are hearing;

- The amount of costs or damages awarded by a judge;
- A judge not reading documents before a hearing;
- A judge refusing to transfer a case to a different judge or court;
- A judge reserving a case to themselves;
- A judge refusing to correspond with a party about a case;
- Fraud or any other criminal offence;
- Court staff or the facilities and services provided by courts;
- Other bodies such as the Police Service of Northern Ireland or the Public Prosecution Service;
- Solicitors and Barristers.

2.4 It is important that the steps taken to investigate a complaint do not affect any official court or tribunal proceedings. Therefore, the investigation of a complaint may be delayed where the conduct happened in legal proceedings which are ongoing, including where the proceedings are under appeal. When the proceedings are complete, the complainant should inform the complaints officer if he or she still wishes to proceed with the complaint.

2.5 If, at any time, it appears that criminal conduct may be involved, the complaints officer will inform the police. In such circumstances, investigation of the complaint will be delayed pending the outcome of any criminal investigation and any subsequent proceedings.

2.6 Complaints should be made promptly and, other than in exceptional circumstances, within three months of the conduct complained of.

2.7 While all complaints are important and will be considered carefully by the complaints officer, there is a special procedure for complaints that appear 'to involve a serious allegation of misbehaviour or inability to perform the functions of an office and to have a reasonable prospect of being substantiated'.⁶

⁶ Section 16 of the Act – see Annex A.

These complaints are referred to in this Code as being 'gross misconduct'; all other complaints are referred to as 'misconduct'.

Examples of gross misconduct may include:

- Making exceptionally inappropriate remarks, such as comments on a person's religion, racial background or sexual orientation;
- The judicial officer being convicted of a criminal offence;
- The judicial officer being subject to a court-imposed restraining order;
- Misusing judicial status for personal gain or advantage;
- Personal opinions expressed in public which lead to a perception of bias.

2.8 The Code primarily deals with complaints about the conduct of judicial officers acting in their official capacity. However, the high standards expected of those holding judicial office must be observed in many aspects of their conduct outside their judicial role. Complaints about conduct which occurred when the judicial officer was not acting in an official capacity ('outside conduct') might, therefore, be considered.

2.9 The principal factor for outside conduct will be whether or not the conduct in question relates to the judicial office. Examples of inappropriate conduct is likely to fall within one of the following categories:

- Conduct which is likely to bring the judiciary into disrepute;
- Conduct which calls into question the judicial officer's ability to properly administer justice, whether by perception or otherwise;
- Conduct involving an attempt to gain favour by trading on his or her position as a judicial officer.

Examples of complaints about 'outside conduct' may include:

- Criminal convictions;
- Inappropriate comments to the media;
- Inappropriate comments in a judicial speech or in a public forum;
- Inappropriate use of social media;
- Failure to disclose relevant personal information e.g. serious financial difficulties, conflicts of interest or previous criminal convictions;
- Misusing judicial status for personal gain or advantage.

2.10 Where a complainant wishes to remain anonymous, or where a complaint has been withdrawn, it will not be possible to investigate the complaint in accordance with this Code of Practice. However, the Chief Justice may initiate some form of investigation of any matters brought to his or her attention, whether or not a complaint has been made.

2.11 Separate procedures are detailed in Part 12 to cover 'whistle-blowing' by a judicial officer, a member of court staff or a member of the legal profession.

2.12 A separate protocol has been developed to govern complaints against the Chief Justice which has been published.

3. Help for Complainants

3.1 It is important to make sure that the complaints procedure is accessible to all members of the community. In the case of a complainant with a disability, or whose first language is not English, or who has poor reading and writing skills or who has any other difficulty with communication, the officer receiving the complaint will provide help to make sure that the complainant is able to take part fully throughout the complaints process.

3.2 In particular, where necessary, help will be provided to get a written statement from the complainant – for example, by taking a note of the complaint for the complainant to sign, or by having an interpreter. Help may also be provided should the complaint be heard by a tribunal – for example by having an interpreter or carer present at the hearing as well as a representative.

3.3 Children and young people may of course make a complaint, although they should do so through an appropriate adult if possible. Help will also be provided to meet the particular needs of young complainants, to make sure they are able to take part fully. Young complainants may be helped by an appropriate adult at any stage of the process.

3.4 While it is understandable that complainants may be distressed or irritated by an issue, aggressive, abusive or oppressive behaviour is not acceptable and may result in no action being taken in relation to a complaint.

4. Receipt of Complaints

4.1 A list of judicial officers against whom complaints may be considered is at Annex B. **Complaints about judicial officers listed at Annex B Part 1 should be sent to the complaints officer in the Chief Justice's Office for consideration** – contact details are given at Annex F. **Complaints about judicial officers listed at Annex B Part 2 should be sent to the relevant Tribunal President/Chair⁷ for consideration.** These complaints will be dealt with in accordance with Part 14. If, on consideration, the President/Chair considers a complaint may fall into the 'gross misconduct' category they or their complaints officer should consult the Chief Justice's Office in accordance with Part 8.

4.2 Complaints should be made in writing. Help will be given if needed in accordance with Part 3. The complainant will be expected to provide full details of their complaint, together with a note of any evidence to support the complaint.

4.3 All complaints will be acknowledged within 3 working days and the complainant will be given the contact details of the person dealing with the complaint.

4.4 The complaints officer will decide, in accordance with the guidance set out in Part 2, whether the complaint concerns a relevant judicial officer and relevant judicial conduct. If the complaint is not within the remit of this Code, the complaints officer will inform the complainant within 10 working days and will provide a brief explanation. In the case of complaints that should be dealt with by another body, the complaints officer will direct the complainant to that body. For example, the complaint might relate to the advice supplied to the complainant by a solicitor, in which case the complainant might be advised to contact the Law Society.

⁷ The tribunal concerned is required to notify the Chief Justice's Office of all complaints.

4.5 As noted at paragraph 2.4, the complaints officer will find out whether any proceedings are ongoing or pending which might require the consideration of the complaint to be delayed. If it is going to be delayed, the complainant and, where appropriate, the judicial officer holder will be informed of the delay and the reasons for it. When the proceedings are finished the complainant should advise the complaints officer and confirm whether or not they wish to continue with their complaint.

5. Dealing with complaints informally

5.1 It is best for everyone to resolve complaints as quickly as possible. Dealing with complaints informally helps to get a relatively speedy outcome that is agreeable to both parties, and saves time and effort being spent on a formal investigation. However, dealing with complaints informally may not be appropriate in all situations. Complaints that are defined as 'gross misconduct' will not be dealt with informally. It is hoped that most other complaints can be dealt with informally. A complaint that would usually be dealt with informally may be formally investigated if the judge in question has a history of similar complaints.

5.2 Informal resolution will usually be managed by the complaints officer, who will explain the process to the complainant. The complaints officer will then write to the judge concerned and seek his or her views on the complaint. Complaints cannot be resolved informally without both the complainant and the judge agreeing to proceed informally. Following consideration, the judge might feel that an explanation may be issued on his or her behalf. Alternatively, the judge may decide that the complaint cannot be resolved in this way or that it is not suitable for informal resolution. If so, the complaint will then be dealt with through the formal investigation procedure.

5.3 The complainant will be told in writing of the plan to resolve the complaint. If the complainant is dissatisfied, he or she must advise the complaints officer within 10 working days. The complaints officer will then decide whether or not any more steps may be taken to resolve the matter informally or if the matter should be subject to formal investigation. If informal resolution is not possible, any explanation by the judge will be considered in the context of the issues arising.

6. Investigation

6.1 Where an investigation is to be undertaken the complaints officer will usually contact the judicial officer about whom the complaint has been made. If there is a difference between the accounts given by the complainant and the judicial officer, the complaints officer will try to get information and evidence from other sources or witnesses to help establish the facts. The type of enquiries the complaints officer may make include gathering information and evidence from for example:

- audio recordings of proceedings;
- written transcripts of proceedings;
- other parties to the proceedings;
- barristers and solicitors involved in the proceedings;
- the Public Prosecution Service;
- court clerks, court ushers and other members of court staff;
- other people who may have witnessed the alleged misconduct.

6.2 Each complaint will be considered carefully on its own merits, taking into account all the available evidence, the nature of the complaint and any other relevant factors. It is also important that complaints are investigated in a way that protects the confidentiality of those involved (which is a statutory requirement under section 9I of the Act, see Annex A). Having considered all the available evidence and taking into account the nature of the complaint and any other relevant factors, the complaints officer will report to the Chief Justice or the nominated judge.

7. Process for Complaints about Misconduct

7.1 The complaints officer will consider the complaint and obtain any necessary additional information from the complainant. This information is to be provided within 20 working days of being requested.

7.2 If a response is not received to a request for further information from the complainant within 20 working days, the complaints officer will issue a reminder. This will make clear to the complainant that if a response is not received within a further specified time period, the complaint may be treated as withdrawn.

7.3 The judicial officer will be informed as soon as all relevant information is received from the complainant. The judicial officer will be asked to provide a response within 20 working days.

7.4 The complaints officer may also obtain: audio recordings or transcripts of court proceedings, where either are available; witness statements from other people; and any other evidence that he or she considers relevant and necessary. Witnesses will be asked to provide any statements within 20 working days. The judicial officer will be given an opportunity to respond. If deemed appropriate, the complaints officer may need to get more information.

7.5 On receipt of all relevant information from the parties and any other witnesses, the complaints officer will generally aim to prepare a report within 20 working days for the Chief Justice or the nominated judge, summarising the complaint, the judge's response, and any additional evidence received. Complex complaints may take longer, however, every effort will be made to complete them promptly. Copies of the relevant documents will be enclosed with the report. The Chief Justice or the nominated judge may make, or ask for, any additional inquiries he or she considers necessary.

7.6 Following consideration by the Chief Justice or the nominated judge, the complaints officer will notify the complainant and the judge of the decision, the reasons and any action to be taken. Possible outcomes are set out in Part 9.

7.7 If at any point it becomes clear that the complaint is 'gross misconduct', the Chief Justice or the nominated judge will ask a tribunal to take over investigation of the matter, in accordance with the normal procedure for 'gross misconduct' complaints outlined in Part 8.

Review

7.8 The parties will have 10 working days from notification of the decision within which to apply for a review. This is a review of the process of investigating the complaint to make sure that all relevant points have been addressed. It is not a second investigation of the complaint. An application for a review should be made in writing to the Chief Justice's Office setting out in full the reasons for the application. The review may be undertaken by the Chief Justice (where he or she was not involved with the original complaint) or he or she may refer the matter to an independent nominated judge of appropriate seniority. The review will consider handling of the matter to determine whether the process was followed appropriately. As part of the review process, if appropriate, the other party will be given an opportunity to make representations. The complaints officer will notify the parties of the outcome of the review as soon as possible.

8. Process for Complaints about Gross Misconduct

8.1 If the Chief Justice or the nominated judge considers that a complaint is in the 'gross misconduct' category, it will be referred to a Complaint Tribunal for it to give advice on how to deal with the complaint. The Chief Justice's Office will convene a Complaint Tribunal and the parties will be told of the decision to do so within 3 working days.

8.2 The Complaint Tribunal will consist of two judicial officers of at least the seniority set out in the table below and a lay member. The lay member shall be a person who is not, and has never been, a judicial officer or professional legal adviser. Anyone who has, within the previous five years, been employed by the Northern Ireland Courts and Tribunals Service, or another government department in connection with a tribunal, is also not permitted to sit as a lay member of the Complaint Tribunal. If the complaint arises from proceedings, the judicial members of the Complaint Tribunal will not have been involved in hearing that case or any appeals.⁸ The senior judicial member will chair the Complaint Tribunal. The parties will be informed of the names of the members of the Complaint Tribunal and the judicial offices they hold (if any) as soon as is possible.

Complaint Against ⁹	Complaints Tribunal Panel ¹⁰
Tribunal Member	County Court Judge Tribunal President/Chair Lay Member

⁸ Due to the numbers concerned, it may not always be possible for this to apply to judges of the Court of Appeal.

⁹ Those who hold more than one judicial office will be considered on the basis of their most senior post, irrespective of the context in which they received the complaint.

¹⁰ May involve retired members of the judiciary at the appropriate tier

Tribunal President/ Chair Lay Magistrate District Judge (Magistrates' Courts) District Judge Coroner	High Court Judge County Court Judge Lay Member
Social Security Commissioner Child Support Commissioner	Lord Justice of Appeal Chief Commissioner Lay Member
Chief Commissioner County Court Judge Master	Lord Justice of Appeal High Court Judge Lay Member
High Court Judge	Lord Justice of Appeal Second Lord Justice Lay member
Lord Justice of Appeal	Justice of the Supreme Court Second Justice of the Supreme Court Lay Member

8.3 All procedural matters and questions of evidence will be decided by the Complaint Tribunal chair. In deciding on the procedure, the chair must consider the following:

- The papers forwarded by the complaints officer;
- The need for any further information and supporting material from the complainant to properly investigate the complaint;
- Obtaining the judicial officer's response and the supporting material he or she needs or wishes, to give;
- Relevant transcripts, audio recordings of court proceedings, other witness statements and any other evidence;

- If necessary, getting clarification or more information from either of parties or any witnesses;
- Obtaining any other written statements or interviewing parties and/or witnesses and keeping a record of their evidence;
- That usually a hearing will take place. The Complaint Tribunal will fix a date for the hearing and will tell the parties in writing at least 10 working days before the hearing;
- If a hearing is unnecessary, before preparing its report, the tribunal will make sure that the judicial officer has had an opportunity to respond to the evidence received;
- That the hearing will take the form of an inquiry and the tribunal may call and question witnesses;
- That the parties shall be entitled to attend and shall be provided with an opportunity to have their say. The tribunal may also ask the parties to put additional relevant and appropriate questions to witnesses;
- Parties may be accompanied by a representative.¹¹ This person may speak and ask questions on behalf of the party, but may not answer questions on behalf of the party;
- That the Complaint Tribunal may adjourn if necessary for any reason or proceed in the absence of any party or witness provided that person was told about the hearing; and
- The Complaint Tribunal shall regulate the procedure of the Tribunal.

8.4 The judicial officer and the complainant will be expected to comply with any request to provide information or to attend a hearing, and any failure to do so may be taken into account in deciding how to deal with the complaint.

¹¹ The Complaint Tribunal has no authority to make payments or direct that payments be made to cover the cost of representation.

8.5 All decisions of the Complaint Tribunal will be by simple majority. Differences in opinion as to the facts of the case or the recommendation may be reflected in their report if agreement cannot be reached.

8.6 The Complaint Tribunal will prepare a report summarising its findings, detailing any additional evidence, and making a recommendation as to the outcome (including the reasoning for its decision). The report will be sent to the Chief Justice or the nominated judge. The Chief Justice or the nominated judge will consider the recommendations. He or she may ask the tribunal to make any additional inquiries considered necessary before reaching a final decision.

8.7 If appropriate a complaint may be referred to a Complaint Tribunal at any stage, according to the procedure set out above. To help the Chief Justice or nominated judge to decide the complaints officer may make some initial enquiries, for example listening to any recording, where it is available.

Review

8.8 The parties will be invited to provide written comments within 10 working days of receiving the Complaint Tribunal's report. In reaching the final decision, the Chief Justice or the nominated judge will take into account any comments received.

8.9 The complaints officer will notify the complainant and the judicial officer of the decision and any action to be taken. Where appropriate, the relevant Tribunal President/Chair will also be informed.

9. Outcomes

9.1 The decision of the Chief Justice or the nominated judge will set out whether or how far the complaint has been found to be upheld, whether or how far the judicial officer's conduct fell short of the required standard, and the outcome. In deciding what action to take, the judge's previous conduct may be taken into consideration. A record will be kept of any sanctions imposed. Where the complaint is not upheld and the judicial officer's conduct met the required standard or where the case is not proved the complainant will be advised accordingly and that there will be no further action.

9.2 Where a complaint is upheld, as well as an explanation and/or an apology, one or more of the following may apply:

- Advice/Training/Mentoring – the judicial officer will be given advice as to his/her conduct and how it could be improved in future and/or a recommendation that he or she undertake training aimed at improving the conduct in question. Arrangements may be put in place to facilitate a period of mentoring.
- Restriction of Practice – restrictions may be placed on the types of case assigned to the judicial officer for a period of time or subject, for example, to training being undertaken.
- Informal Warning – the Chief Justice will issue the judicial officer with an informal warning if his or her conduct is inappropriate but does not merit a formal warning.
- Formal Warning – the Chief Justice will issue the judicial officer with a formal written warning if his or her conduct failed to meet the required standard.

- Final Warning – the Chief Justice will inform the judicial officer in writing that his or her conduct has fallen so significantly or repeatedly short of the required standard, and that further misconduct could result in referral to a statutory tribunal.
- Referral to a statutory tribunal (sections 7 and 8 of the Act) – depending on the level of judge involved, a judicial officer may only be removed by Her Majesty the Queen on address by both Houses of Parliament, or by the Chief Justice. In either case, a statutory tribunal must first consider the case and recommend removal. Therefore, if the Chief Justice decides that the judicial officer’s conduct fell so far short of the required standard that removal may be warranted, he or she may, after consulting the Northern Ireland Judicial Appointments Ombudsman, refer the matter to a statutory tribunal. The statutory tribunal will present its recommendations to the Chief Justice. A judicial officer may be suspended from office when a statutory tribunal has been convened.

9.3 As noted above, judicial decisions may only be challenged through legal procedures, and it may be necessary to delay investigation or determination of the complaint until proceedings are finished. A finding that a judicial officer’s conduct failed to meet the required standard will **not** in any circumstances result in the judgment in a case being overturned or altered.

10. Vexatious Complaints

10.1 Sometimes, the same complaint is made repeatedly, or a complaint is made which is vexatious or purely to annoy the judicial officer. While all complaints will be considered by the complaints officer, in liaison with the Chief Justice or nominated judge, if he or she is satisfied that a complaint falls within either of these categories, it need not be investigated further. The complaints officer will inform the complainant and the judicial officer, as appropriate, and explain why the complaint will not be investigated. The complaints officer will not usually get involved with any further correspondence about the complaint. Examples of vexatious complaints may include:

- the same complaint made repeatedly;
- repeated complaints made against a particular judicial officer;
- a refusal to accept court or tribunal procedures;
- a refusal to accept court or tribunal decisions.

11. Confidentiality and Publicity

11.1 All complaints will be treated in confidence in accordance with section 9I of the Act (see Annex A). Details of the complaint will normally be disclosed only to those involved in dealing with and investigating the complaint. To make sure that the process is fair, details of the complaint must be revealed to the judge in question, and some information may be revealed to other witnesses if necessary.

11.2 It will be assumed that the complainant accepts that the information provided will be disclosed and used in accordance with this Code of Practice. If the complainant states otherwise, it may not be possible to investigate the complaint.

11.3 The Chief Justice and the Lord Chancellor may agree to release information about disciplinary action taken (see section 9I(6) of the Act, Annex A). A public statement or press release in relation to a complaint will normally only be made where it is in the public interest - usually this will be in gross misconduct cases or where a case has already attracted publicity. Other than to confirm that an investigation is being conducted, no statement will be made until the process has been concluded. Any statement will not identify the complainant or judge or contain details which would allow either party to be identified, unless that person consents or the information is already in the public domain.

11.4 Information about complaints upheld in relation to an individual judicial officer will be made available to the Northern Ireland Judicial Appointments Commission, if that officer is seeking re-appointment or a new appointment. Any other limited disclosure of information will only be in accordance with section 9I of the Act.

12. Whistle-blowing

12.1 A judicial officer, a member of court staff or a member of the legal profession may wish to draw the Chief Justice's attention to the conduct of a judicial officer. Due to the fact that judicial officers, court staff and the legal profession have ongoing working relationships, the special provisions outlined in this section may apply.

12.2 In such a situation, the individual should forward details of his or her complaint to the complaints officer in the Chief Justice's Office. He or she should include his or her name and contact details, but indicate that he or she wishes the complaint to be dealt with under the 'whistle-blowing' provisions. The individual's identity and his or her statement will not be disclosed to the judicial officer concerned without their express written consent. This may, however, limit the scope of the investigation.

12.3 The steps taken will, as far as possible, mirror those taken in the course of an ordinary investigation. It will not be possible to use the individual's statement as evidence unless he or she agrees to the statement being disclosed. If it is the only information on the judge's conduct that is available, no further action may be possible. Ultimately, any action taken will depend on the evidence that can be obtained from other sources. In some circumstances, if it is considered appropriate to do so, the Chief Justice may appoint an independent person to assist with the investigation.

12.4 If the complaint alleges criminal conduct, the complaints officer will forward the complaint to the police and anonymity cannot then be guaranteed.

13. **Complaints Statistics**

13.1 Statistics will be recorded by the complaints officer on the total number of complaints received, the number of complaints against each tier of judicial officer, the nature of complaints received, the number of complaints disposed of at each stage of the process, the manner of disposal, and the time taken to investigate and dispose of complaints.

13.2 Statistical information will be made available on the Judiciary NI website. This information will include the nature and number of complaints received, the number of complaints upheld, the types of complaints upheld and the outcomes when complaints have been upheld. <https://www.judiciaryni.uk/>

13.3 The number and nature of complaints against individual judicial officers will be monitored. An annual report will be prepared by the complaints officer for the Chief Justice.

14. Tribunal Complaints

14.1 Complaints made to a tribunal President/Chair's office will be dealt with in the same manner as outlined above by the President/Chair and his or her complaints officer (see 4.1 and Annex B Part 2).

14.2 If the complaint is outside the scope of the system, the tribunal complaints officer will let the complainant know. If the complaint is within the misconduct category, the tribunal complaints officer may deal with the complaint in the manner outlined above.

14.3 If the complaint appears that it might fall within the 'gross misconduct' category, the tribunal President/Chair or complaints officer should consult the complaints officer in the Chief Justice's Office.

14.4 The timescales summarised in Annex D will also apply to complaints dealt with by the tribunal President/Chair and his or her complaints officer.

14.5 The tribunal complaints officer will find out whether or not any legal proceedings are ongoing or pending, or if there is any other factor which might require investigation of the complaint to be delayed, as noted above. When the proceedings are finished the complainant should advise the complaints officer and confirm whether or not they wish to continue with their complaint.

14.6 Complaints to be decided by the President/Chair will be 'misconduct' complaints. Where appropriate, the tribunal complaints officer will attempt to resolve the issue informally in the same manner as is outlined in Part 5.

14.7 If informal resolution is unsuccessful, or the complaint is not suited to informal resolution, the tribunal complaints officer will investigate it in

accordance with the procedure set in Part 6, and will prepare a report for the tribunal President/Chair.

14.8 The tribunal President/Chair will decide what action is required based on the report, however, he or she may make any additional enquiries he or she considers necessary. If it appears to the President/Chair on receiving the report that the complaint might be 'gross misconduct', he or she should contact the Chief Justice's Office before making a decision.

14.9 The tribunal President/Chair may decide to take no further action, or consider the options outlined at Part 9 as appropriate.

Review

14.10 The parties will have 10 working days from notification of the tribunal President/Chair's decision within which to apply for a review. This is a review of the process of investigating the complaint to make sure that all relevant points have been addressed. It is not a second investigation of the complaint. An application for a review should be made in writing to the Chief Justice's Office setting out in full the reasons for the application.

14.11 The Chief Justice's Office will send a copy of the request to the tribunal President/Chair. The review will consider handling of the matter to determine whether the process was appropriately followed. As part of the review process, if appropriate, the other party will be given an opportunity to make representations. The complaints officer will notify the parties of the outcome of the review as soon as possible.

Record Keeping

14.12 The tribunal's complaints officer will keep details of each complaint received. Statistics on the nature of complaints received, how they were disposed of, and the time taken, will be forwarded to the complaints officer in the Chief Justice's Office. Tribunal President/Chairs should monitor the complaints received relating to judicial officers.

This policy, or the arrangements under it, may be varied, amended or adjusted at any time.

Statutory Background - The Justice (Northern Ireland) Act 2002

16 Complaints about Holders of Judicial Office

(1) The Lord Chief Justice must prepare a code of practice relating to the handling of complaints against any person who holds a protected judicial office.

(2) The code must include provision for any complaints appearing to the Lord Chief Justice –

(a) to involve a serious allegation of misbehaviour or inability to perform the functions of an office, and

(b) to have a reasonable prospect of being substantiated,

to be referred to a tribunal for it to provide advice about any steps which should be taken to deal with the complaint.

(3) The Lord Chief Justice may from time to time prepare a new code or make alterations to a code.

(4) The Lord Chief Justice must publish each code prepared by him and any alterations which he makes to a code (or the code as altered).

9I Confidentiality in relation to judicial appointments and discipline

(1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.

(2) These are the relevant provisions –

(a) sections 12 to 12C of the Judicature (Northern Ireland) Act 1978 (appointment and removal of Lord Chief Justice, Lords Justices of Appeal and judges of High Court);

(b) sections 3, 7 and 9 to 9H of this Act (appointment and removal of judicial officers, and appointment and removal of lay magistrates);

- (ba) Schedule 3 to this Act and paragraph 2A of Schedule 11 to the Northern Ireland Act 1998;
 - (c) sections 134 and 133 of the Constitutional Reform Act 2003 (removal from judicial offices);
 - (d) section 16 of this Act (complaints about judicial officers);
- (3) Information is confidential if it relates to an identified or identifiable individual (a “subject”).
- (4) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies –
- (a) the disclosure is with the consent of each person who is a subject of the information (but this is subject to subsection (3));
 - (b) the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision or a decision whether to exercise them;
 - (c) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.
- (3) An opinion or other information given by one identified or identifiable individual (A) about another (B) –
- (a) is information that relates to both;
 - (b) must not be disclosed to B without A's consent.
- (6) This section does not prevent the disclosure with the agreement of the Lord Chancellor and the Lord Chief Justice of information as to disciplinary action taken in accordance with a relevant provision.
- (7) This section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
- (8) A contravention of this section in respect of any information is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.

(9) But it is actionable only at the suit of a person who is a subject of the information.

List of Protected Judicial Offices

The following are designated as protected judicial offices by Section 2 (3) of the Act (as amended):

Part 1 – Responsibility of the Chief Justice’s Complaints Officer:

Lord Justice of Appeal

Judge of the High Court

Temporary judge of the High Court under section 7(3) of the Judicature (Northern Ireland) Act 1978

County court judge

Deputy county court judge

District Judge (Magistrates’ Courts)

Deputy District Judge (Magistrates’ Courts)

Coroner

Deputy coroner

Statutory officers (within the meaning of section 70(1) of the Judicature (Northern Ireland) Act 1978 – this includes District Judges and Masters of the Supreme Court.

Deputy for a statutory officer under section 74 of that Act

Temporary additional statutory officer under that section

Chief Social Security Commissioner for Northern Ireland

Chief Child Support Commissioner for Northern Ireland

President of Appeal Tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998

President of the Industrial Tribunals and the Fair Employment Tribunal

Acting President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998

President of the Lands Tribunal for Northern Ireland

President of the Special Educational Needs and Disability Tribunal for Northern Ireland

President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987¹²

Member of the panel of persons who may serve as chairmen of the Care Tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003¹³

Member of the tribunal established under section 91 of the Northern Ireland Act 1998

Chairman of the Review Tribunal constituted under Article 70 of the Mental Health (NI) Order 1986

Lay magistrate

Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997¹⁴

Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland¹⁵

Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland¹⁶

Member of the panel of person to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985

¹² Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(1)

¹³ Substituted by the Constitutional Reform Act 2003, s. 13(2), Sch 3, Part 1, para 122(3)

¹⁴ Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(3)

¹⁵ Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(3)

¹⁶ Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(3)

President of the Northern Ireland Valuation Tribunal¹⁷

President of the Charity Tribunal for Northern Ireland¹⁸

Chairman appointed under Article 7(2)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002¹⁹

President of the Victims' Payments Board

Part 2 - Responsibility of the Tribunal Complaints officer in the relevant tribunal:

Social Security Commissioner for Northern Ireland

Deputy Social Security Commissioner for Northern Ireland

Child Support Commissioner for Northern Ireland

Deputy Child Support Commissioner for Northern Ireland

Member of the panel of persons to act as members of the appeal tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998)

Vice President of the Industrial Tribunals and the Fair Employment Tribunal
Acting Vice President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998

Member of the panel of chairmen of the Industrial Tribunals²⁰

Member of the panel of chairmen of the Fair Employment Tribunal

Deputy Chairman of the Review Tribunal constituted under Article 70 of the Mental Health (NI) Order 1986

Member of the Review Tribunal constituted under Article 70 of the Mental Health (NI) Order 1986

¹⁷ Inserted by the Justice (Northern Ireland) Act 2002 (Addition of Listed Judicial Offices etc) Order 2006, SR 2006/469, Article 2

¹⁸ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 3, Sch 4, para 33(3)

¹⁹ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 3, Sch 4, para 33(3)

²⁰ Inserted by the Constitutional Reform Act 2003, s. 13(2), Sch 1, Part 1, para 122(4)

Deputy President of the Lands Tribunal for Northern Ireland under section 3(1) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964

Other member of the Lands Tribunal for Northern Ireland

Temporary member of the Lands Tribunal for Northern Ireland under section 3(2) of the Lands Tribunal and Compensation Act (Northern Ireland) 1934

Member of the panel of persons who may serve as chairman of the Special Educational Needs and Disability Tribunal for Northern Ireland

Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland²¹

Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland²²

Member of the Northern Ireland Valuation Tribunal²³

Member of the Charity Tribunal for Northern Ireland²⁴

Deputy appointed under paragraph 6(1) of Schedule 3 to the Plant Varieties Act 1997 for the purpose of proceedings brought before the Plant Varieties & Seeds Tribunal in Northern Ireland²⁵

Adjudicator appointed under Article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) 2002²⁶

Adjudicator appointed under Article 29 of the Traffic Management (Northern Ireland) Order 2005

Member of Victims' Payments Board

²¹ Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(3)

²² Inserted by the Constitutional Reform Act 2003 s. 13(2), Sch 3, Part 1, para 122(3)

²³ Inserted by the Justice (Northern Ireland) Act 2002 (Addition of Listed Judicial Offices etc) Order 2006, SR 2006/469, Article 2

²⁴ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 3, Sch 4, para 35(3)

²⁵ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 3, Sch 4, para 35(2)

²⁶ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 3, Sch 4, para 33(3)

Flow Charts

The following flow charts show the basic process.

Chart 1 - Complaints: Part 1 Judicial Offices

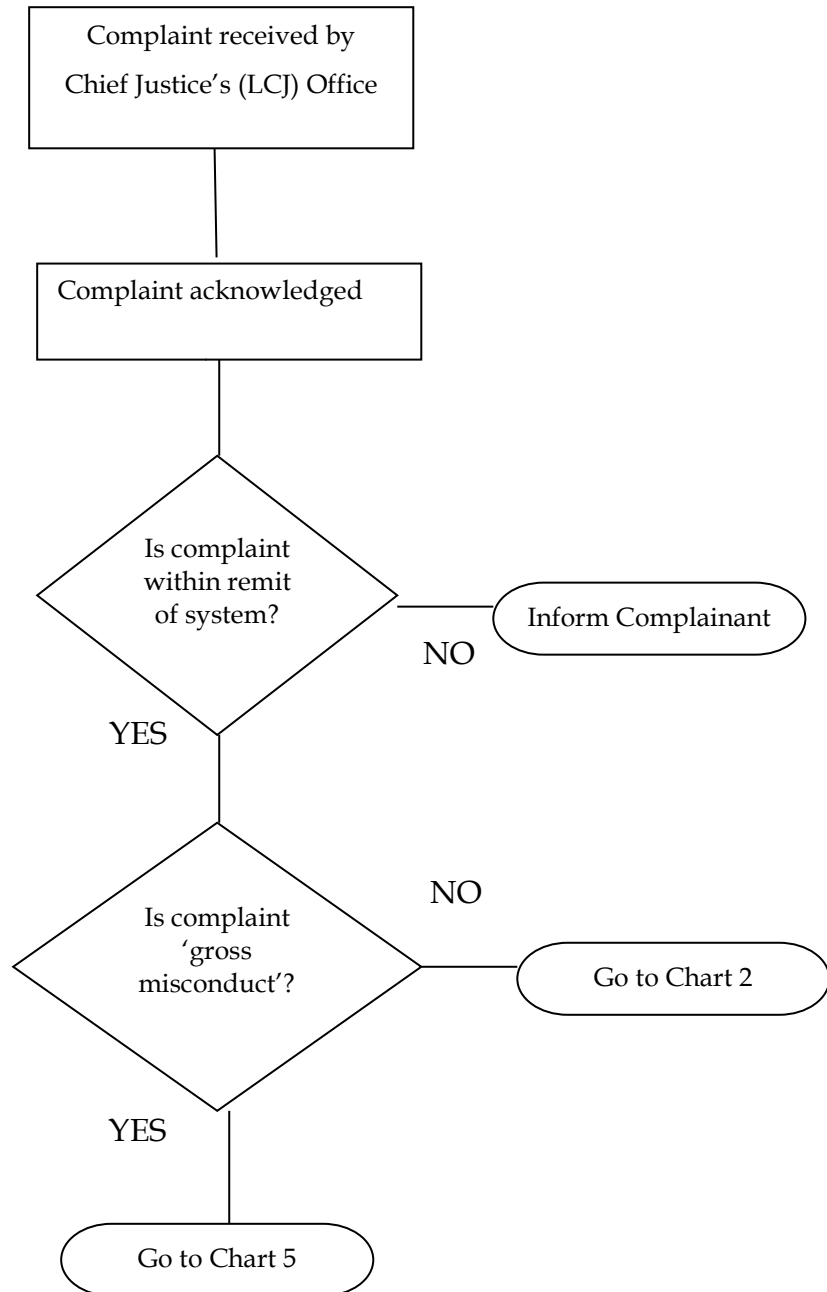


Chart 2 – Misconduct Complaints: Part 1 Judicial Offices

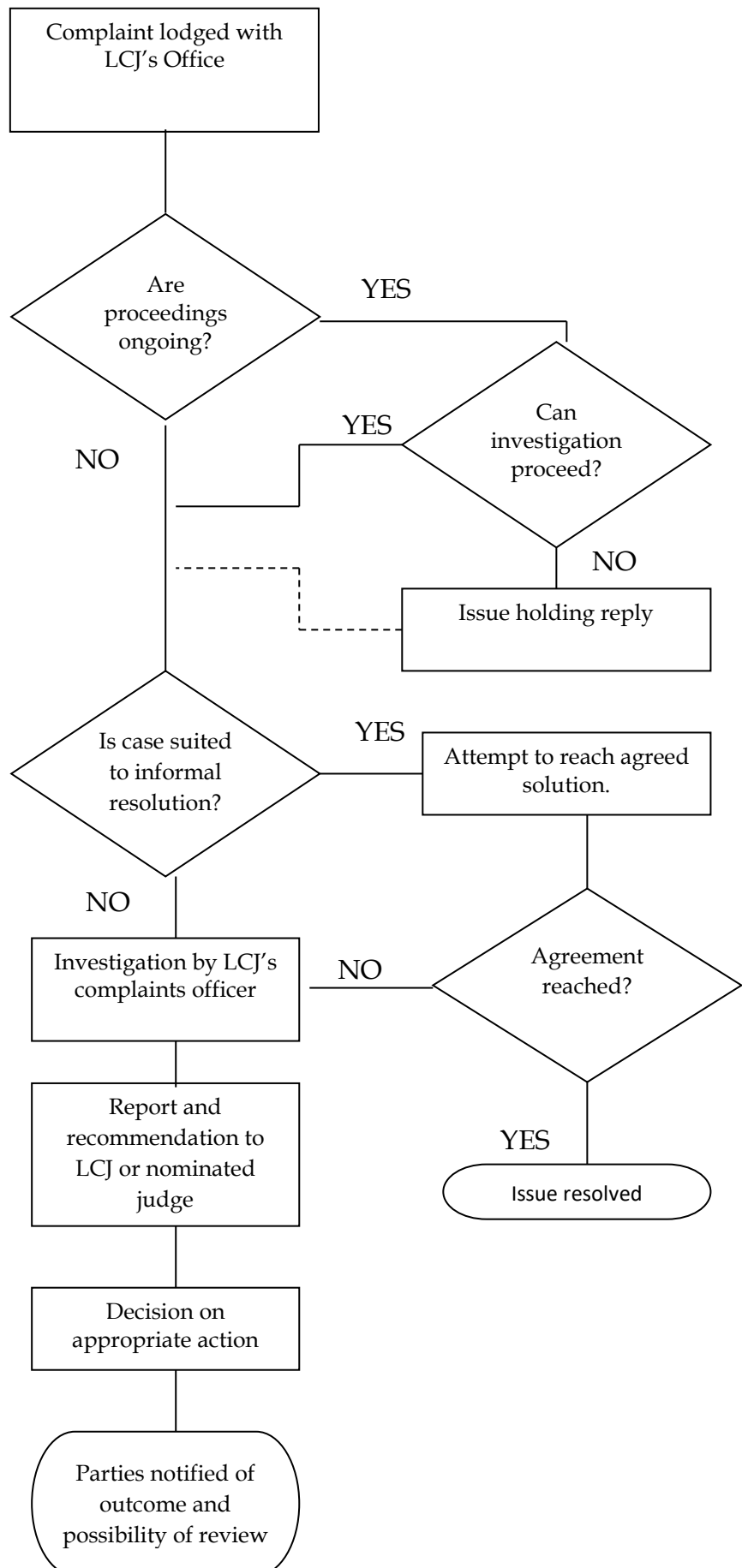
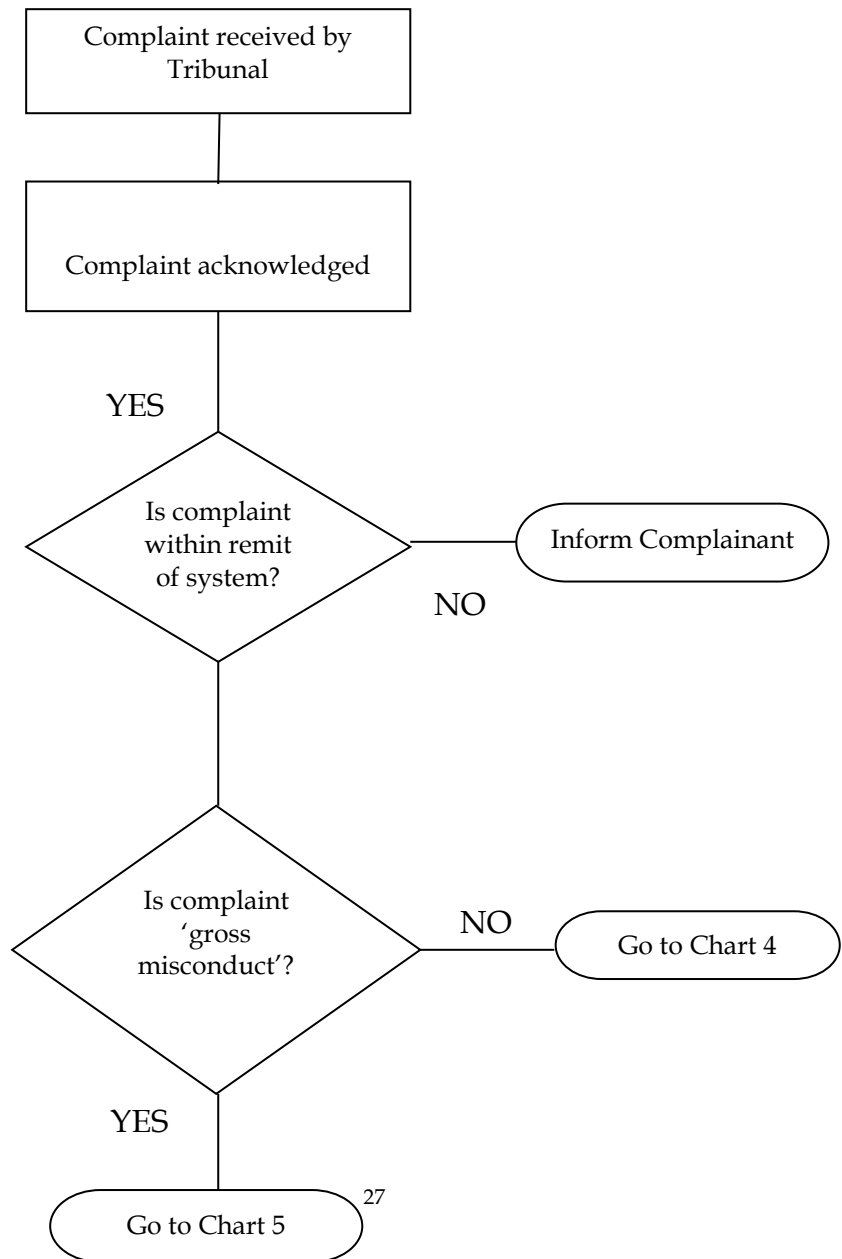


Chart 3 - Complaints: Part 2 Judicial Offices



²⁷ In certain circumstances, the matter may be referred directly to a Complaint Tribunal for investigation.

Chart 4 – Misconduct Complaints: Part 2 Judicial Offices

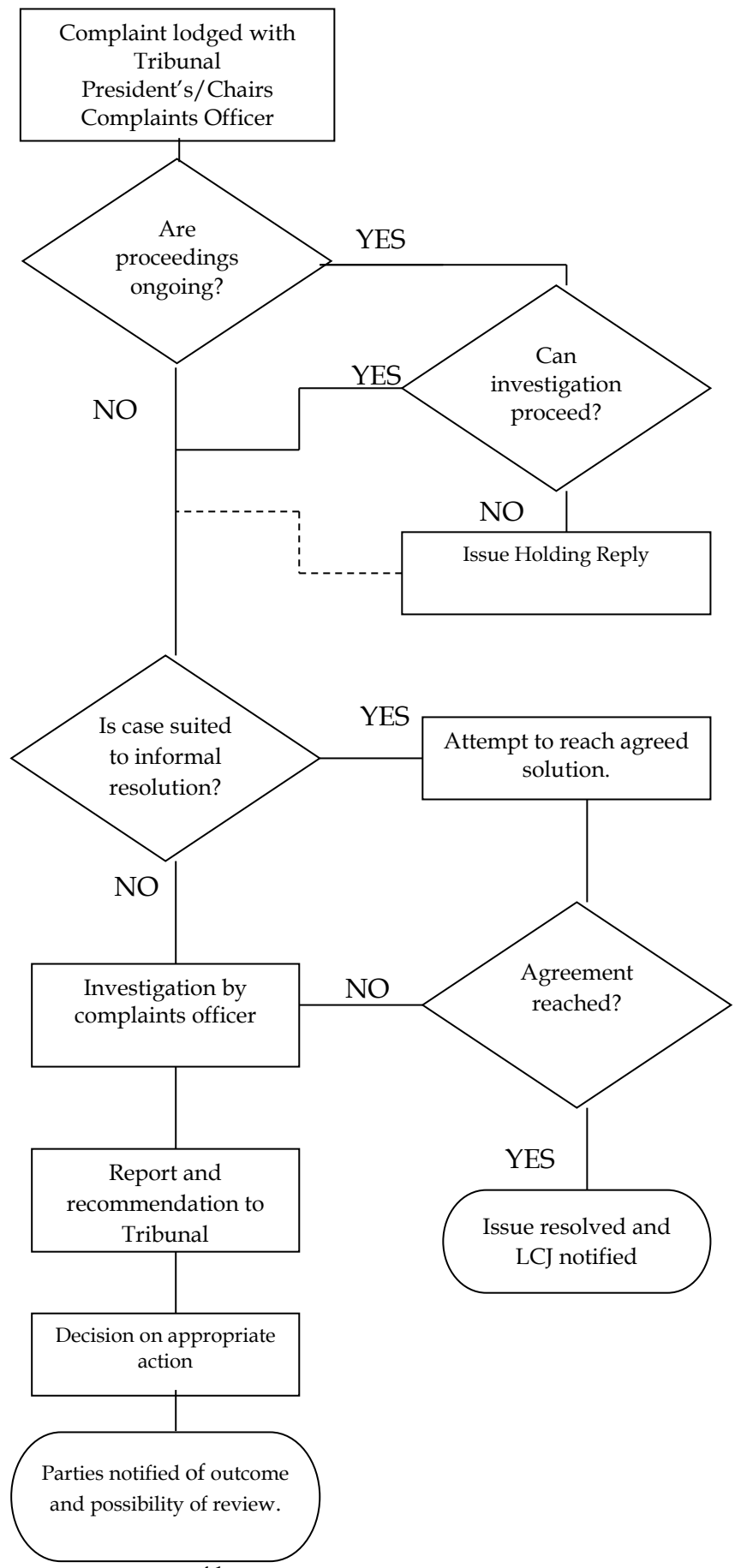
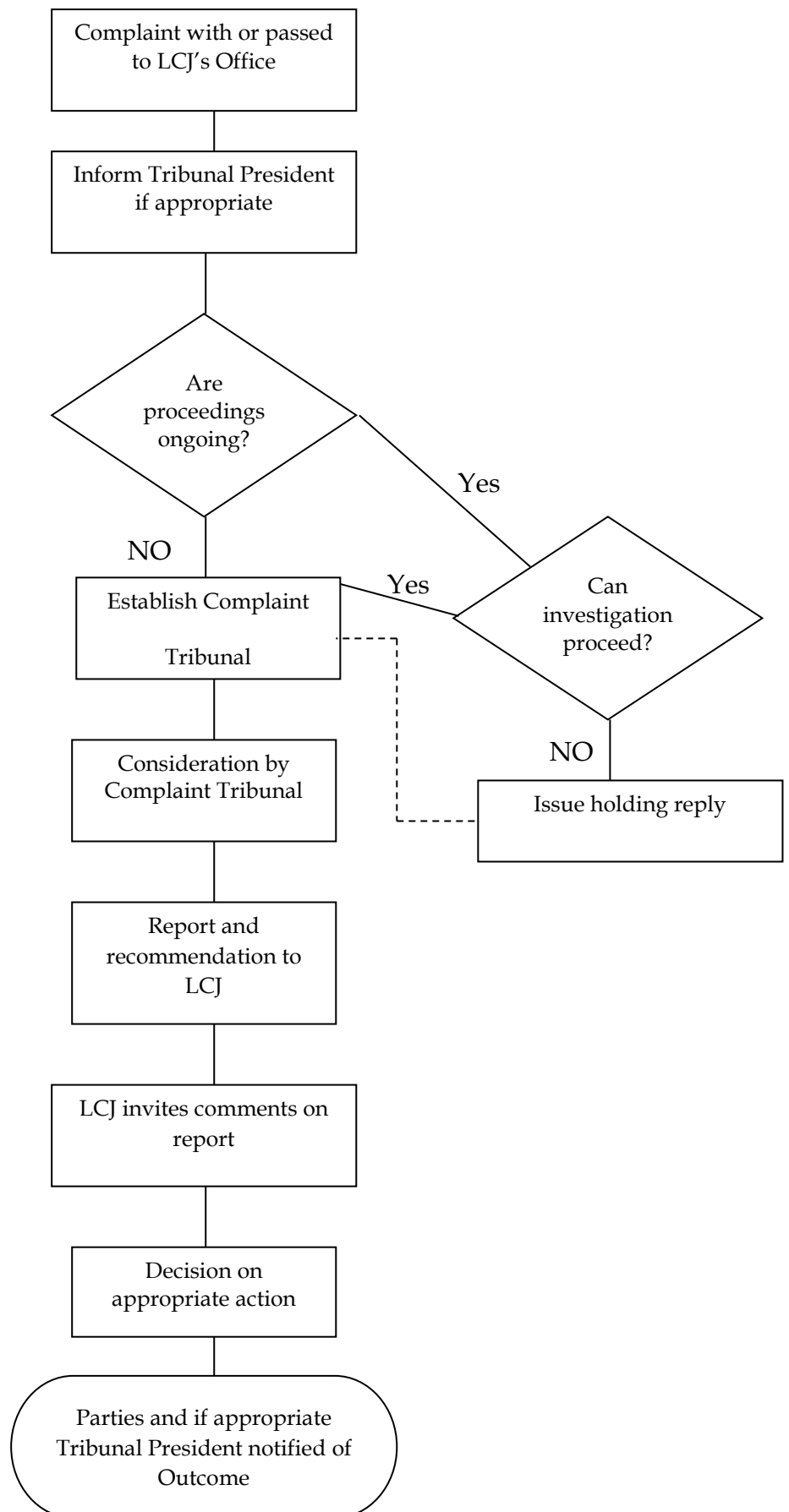


Chart 5 – Gross Misconduct Complaints



Summary of Key Target Times for Dealing with Complaints

The type of complaints dealt with under this code will vary and consequently the time taken to investigate complaints will vary. Target times for dealing with the various stages within the complaint's process are set out below.

All Complaints

- All complaints will be acknowledged within 3 working days of receipt, and the complainant will be provided with contact details of the person dealing with the complaint.
- If it is determined that the complaint is outside the scope of this code and is not to be considered further, the complainant will be advised within 10 working days of receipt of the complaint.

'Misconduct' Complaints

- As soon as all the relevant information is received from the complainant the judicial officer will be asked to respond within 20 working days.
- Where necessary, the complaints officer will obtain statements from third parties. They will be asked to respond within 20 working days.
- The complaints officer will prepare a report within 10 working days of receiving all the relevant information. Complex complaints may take longer however every effort will be made to complete them timeously.
- The parties will be notified of the Chief Justice's, the nominated judge's or the Tribunal President's decision within 3 working days of the decision being taken.

'Gross Misconduct' Complaints

- The parties will be notified within 3 working days of a complaint being referred to a complaints tribunal.
- A timescale for the tribunal's investigation will be determined by the tribunal chair.
- The parties and any required witnesses will be given at least 10 working days' notice in writing of any hearing.
- The parties will be notified of the Chief Justice's decision within 3 working days of the decision being taken.

Further Correspondence

- If at any point in the process it is necessary to get more information from the complainant, the judicial officer, or other witnesses, the request will include a timescale for that person to reply. The timescale will depend on the nature of the information and other circumstances (such as the time taken so far and whether the request is made during a holiday period).

Contact Details

Complaints should be sent in writing to the following address:

The Complaints Officer
Chief Justice's Office
Royal Courts of Justice
Chichester Street
Belfast BT1 3JF

Or by e-mail to:

JudicialComplaints@judiciaryni.uk

If you require further information or assistance, please contact us by writing to the address or e-mail address above, or by telephoning (028) 9072 4616.