



Lord Chief Justice's Office

Complaints about the Conduct of Judicial Office Holders

**Code of Practice issued by the Lord Chief Justice under
Section 16 of the Justice (Northern Ireland) Act 2002¹**

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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 E;
- In appropriate cases the emphasis will be on achieving an informal resolution;
- 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 literacy skills, or have any other difficulty with communication, will be given such reasonable assistance as is necessary to ensure they are able to participate fully in the complaints process; and
- The complaints process will be subject to regular monitoring.

1. Definitions

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

Complaints Officer – member of staff within the Lord Chief Justice’s Office or the office of a Tribunal President/Chairman responsible for investigating a complaint.

Complaints Tribunal – A tribunal established under Part 7 of this Code and in accordance with section 16 of the Act.

Judicial Office Holder – A person holding any of the protected judicial offices listed in Annex B.

- Judge – A judicial office holder whose office is listed in Part 1 of Annex B².
- Tribunal Member – A judicial office holder whose office is listed in Part 2 of Annex B³.

Statutory Tribunal – A tribunal established under sections 7 and 8 of the Act for considering removal of a judicial office holder.

² This includes the president or chairman of a tribunal and members of those tribunals which have no president or chairman.

³ This includes members of those tribunals which have a president or chairman.

2. Remit of the Complaints System

2.1 This Code of Practice applies to complaints made from 3rd April 2006 against all holders of protected judicial office, as defined in section 2 of the Act⁴. A full list of these offices is included at Annex B.

2.2 The Lord Chief Justice has sole statutory responsibility for determining complaints about the conduct of these judicial office holders. Elected representatives such as the Minister of Justice and other Members of The Assembly have no authority to address complaints about judicial office-holders. Correspondence to their offices about judicial complaints will be transferred to the Lord Chief Justice's office.

2.3 **Complaints that concern a judicial decision in a case or its final outcome cannot be considered as they are beyond the remit of the Code. Nor can the reasoning underpinning such a decision be addressed for example an allegation that a judge failed to consider or appreciate the importance of some evidence.** To safeguard the principle of judicial independence and the effective operation of the justice system, judicial decisions and the reasoning underpinning those decisions can only be challenged through established legal means such as any available appeal or judicial review procedures. Persons wishing to challenge a judicial decision may decide to seek legal advice on how to do so. The complaints officer cannot provide legal advice. By way of illustration a complainant may allege that the judge was bias against him/her. While such an allegation would not fall within the remit of the Code as it is a legal point it may be grounds for an appeal and require the complainant to consider seeking legal advice. **It is not the purpose of this Code to provide an alternative or additional appeal**

⁴ 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 Lord Chief Justice.

mechanism to consider one or more aspects of concern to a complainant or to 're-open' his/her case.

2.4 It is important that the steps taken to investigate a complaint do not compromise any official court or tribunal proceedings. Therefore, the investigation of a complaint may be delayed where the conduct arose in legal proceedings which are ongoing including where the proceedings are under appeal. The complainant and, where appropriate, the judicial office holder will be kept informed of the position.

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, save 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, the Act provides for a particular procedure for complaints that appear to involve 'a serious allegation of misbehaviour or inability to perform the functions of office, [and] which have a reasonable prospect of being substantiated'⁵. For convenience, such complaints are referred to in this Code as being 'serious' and all other complaints are referred to as 'less serious'.

2.8 The Code is primarily concerned with complaints about the conduct of judicial office holders acting in their official capacity. It should be recognised, however, that the high standards expected of those holding judicial office must be observed in many aspects of their conduct outside their judicial role.

⁵ Section 16 of the Act – see Annex A.

Complaints about conduct that occurred when the judicial office holder was not acting in an official capacity (“outside conduct”) might, therefore, be considered.

2.9 The principal factor for outside conduct will be whether the conduct in question in some way relates to the judicial office; the conduct should fall within one of the following categories:

- Conduct which is likely to bring the judiciary into disrepute.
- Conduct which calls in to question the judicial office holder’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 office holder.

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 Lord Chief Justice may initiate some form of investigation of any matters brought to his attention.

2.11 Separate procedures are detailed in Part 10 to cover ‘whistle-blowing’ by 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 Lord Chief Justice which has been published.

3. Assistance for Complainants

3.1 It is important to ensure that the complaints procedure is accessible to all members of the community. Therefore, in the case of a complainant with a disability, or whose first language is not English, or who has poor literacy skills, or has any other difficulty with communication, the officer receiving the complaint will provide or obtain such reasonable assistance as is necessary to ensure that the complainant is able to participate fully throughout the complaints process.

3.2 In particular, where necessary, assistance will be provided to secure a written statement from the complainant – for example by taking a note of the complaint for the complainant to sign, or by obtaining the services of an interpreter. Assistance may also be provided should the complaint progress to a tribunal – for example by having an interpreter or carer present at the hearing in addition to 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. Reasonable assistance will also be provided to meet the particular needs of young complainants, to ensure they are able to participate fully. Young complainants may be assisted by an appropriate adult at any stage of the process.

3.4 While it is appreciated that complainants may be distressed or irritated by an issue, aggressive or abusive behaviour towards officials is not acceptable and will be drawn to the attention of the Lord Chief Justice.

4. Receipt of Complaints

4.1 Complaints should be sent to the complaints officer in the Lord Chief Justice's Office – contact details are given at Annex F. Complaints about Tribunal Members may be sent to the relevant Tribunal President's Office⁶; such complaints will be dealt with in accordance with Part 12. Any complaints received by anyone else should be forwarded directly to the Lord Chief Justice's Office.

4.2 Complaints should be submitted in writing. Assistance will be provided where necessary in accordance with Part 3. The complainant will be expected to submit full details of their complaint, together with a note of any supporting evidence.

4.3 All complaints will be acknowledged within 5 working days and the complainant will be provided with contact details of the person dealing with the complaint.

4.4 A file will be opened for each complaint that is received, which will contain a copy of the complaint, all correspondence, and a copy or note of all evidence gathered.

4.5 The complaints officer will determine, in accordance with the guidance set out in Part 2, whether the complaint concerns a relevant judicial office holder 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 endeavour to 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.

⁶ The tribunal concerned is required to notify the Lord Chief Justice's Office of all complaints.

4.6 On occasion, the same complaint is made repeatedly, or a complaint is made which is clearly vexatious. While all complaints will be considered by the complaints officer, 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 judicial office holder, as appropriate, and explain why the complaint will not be investigated. The complaints officer will not ordinarily engage in further correspondence on the matter.

4.7 If the complaint is within the remit of this Code, the complaints officer will acknowledge receipt of the complaint. The complaints officer will then ascertain whether the Lord Chief Justice considers that the complaint is 'serious'. To enable the Lord Chief Justice to determine whether a complaint is 'serious', the complaints officer may have to conduct some preliminary inquiries. Guidance on the type of complaint that is likely to be considered serious is attached at Annex C. If the complaint is deemed to be serious the complaints officer will inform, where relevant, the President of the appropriate Tribunal. If the complaint is not serious and concerns a tribunal member, it will be passed to the President of the appropriate Tribunal to be handled according to the procedure set out at Part 12.

4.8 If the complaint is retained by the Lord Chief Justice's Office, the complaints officer will establish whether any proceedings are ongoing or pending which might require investigation of the complaint to be delayed, as noted above. If investigation is 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 concluded, the complaints officer will contact the complainant and determine whether, in light of the outcome, the complaint still requires to be considered.

5. Informal Resolution

5.1 It is beneficial to all concerned to resolve complaints at the earliest stage possible. The process of informal resolution aims to achieve a relatively speedy resolution that is agreeable to both parties, and to minimise the time and effort expended on formal investigation. It is recognised, however, that such a process is not appropriate in all situations. Complaints that are defined as 'serious' will not be dealt with by way of informal resolution. It is envisaged that informal resolution will be suggested for most other complaints. A complaint that would ordinarily be dealt with by way of informal resolution may be formally investigated if the judge in question has a history of similar complaints.

5.2 Informal resolution will ordinarily 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. (In particularly sensitive cases the correspondence may be dealt with directly by the Lord Chief Justice). 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 of the reason for his or her conduct, or a full or partial apology, 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 subject to the formal investigation procedure.

5.3 The complainant will be advised in writing of the proposed resolution. If the complainant is dissatisfied, he or she must advise the complaints officer within 10 working days of receipt. The complaints officer will then consider whether any further 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, then any offer of apology or explanation by the judge will not be taken as an admission of wrongdoing in the formal investigation.

6. 'Less Serious' Complaints

6.1 The complaints officer will be responsible for investigating less serious complaints. The complaints officer will consider the complaint and obtain any necessary additional information from the complainant. This information is to be provided within 15 working days of being requested.

6.2 If a response is not received to a request for further information from the complainant within 15 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 will be treated as withdrawn.

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

6.4 The complaints officer may also obtain third party witness statements, transcripts, audio recordings of court proceedings and any other evidence that he or she considers relevant and necessary. Third parties will be asked to provide any statements within 15 working days. Depending on the evidence gathered, it may be necessary for the complaints officer to seek further information from either of the parties. It will be necessary, before the investigation is concluded, to ensure that the judge is aware of all of the evidence collected, and that he or she has had an opportunity to provide a fully informed response.

6.5 On receipt of all relevant information from the parties and any third party, the complaints officer will prepare a report within 10 working days for the Lord Chief Justice, summarising the complaint, the judge's response, and any additional evidence collected. Copies of the relevant documents will be enclosed with the report. The Lord Chief Justice may make, or require to be

made, any additional inquiries he considers necessary. The Lord Chief Justice or the complaints officer will notify the complainant and the judge of the decision and any action to be taken. Possible outcomes are set out in Part 8.

6.6 If at any point it becomes clear that the complaint should be deemed to be 'serious' the Lord Chief Justice will convene a tribunal to take over investigation of the matter in accordance with the normal procedure for 'serious' complaints outlined in Part 7.

Review

6.7 The parties will have 10 working days from notification of the Lord Chief Justice's decision within which to apply for a review. This is a review of the process of investigating the complaint to ensure all relevant points have been addressed. It is not a second investigation of the complaint in its entirety. An application for a review should be made in writing to the Lord Chief Justice's Office setting out in full the grounds for the application. As part of the review process the other party will be given an opportunity to make representations if the Lord Chief Justice is minded to revise his decision. The Lord Chief Justice may refer the matter to an independent judge of appropriate seniority. The judge may review the handling of the matter, the findings of the investigation and the outcome, and will make recommendations to the Lord Chief Justice. The complaints officer will notify the parties of the outcome of the review as soon as it is available.

7. 'Serious' Complaints

7.1 If the Lord Chief Justice considers that a complaint is within the 'serious' category (see Annex C), it will be referred to a complaints tribunal for it to provide advice on how to deal with the complaint. The Lord Chief Justice's Office will convene a tribunal and the parties will be notified of the decision to do so within 5 working days.

7.2 The tribunal will consist of two judicial office holders 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 office holder or professional legal adviser. Persons, who have, within the previous five years, been employed by the Northern Ireland Courts and Tribunals Service, or another government department in connection with a tribunal, are also ineligible to sit as a lay member of the tribunal. If the complaint arises from proceedings, the judicial members of the tribunal will not have been involved in hearing that case or any appeals⁷. The senior judicial member will chair the tribunal. The lay member will be selected by the Lord Chief Justice from a panel of persons appointed by him for that purpose. The parties will be notified of the names of the members of the tribunal and the judicial offices they hold (if any) as soon as is practicable.

⁷ Due to the numbers concerned, it may not always be possible for this to apply to judges of the Court of Appeal.

Complaint Against ⁸	Complaints Tribunal Panel
Tribunal Member	County Court Judge Tribunal President/Chairman Lay Member
Tribunal President/Chairman 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 or a Retired Judge (of appropriate tier) Lay member
Lord Justice of Appeal	Justice of the Supreme Court Second Justice of the Supreme Court or a Retired Judge (of appropriate tier) Lay Member

7.3 Non-salaried judicial members of the tribunal will be paid for the period they are engaged as though they were sitting for an equivalent period in the court in which they are or were accustomed to sit. Lay members will be

⁸ 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.

paid for each half day or part thereof during which they are engaged by the tribunal, plus reasonable expenses. Administrative support for the tribunal will be provided by the Lord Chief Justice's Office.

7.4 All procedural matters and questions of evidence will be determined by the tribunal chairman in accordance with the rules of natural justice. In determining the procedure, the chairman must have regard to 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 office holder's response and supporting material he or she is required, or wishes, to provide;
- Relevant transcripts, audio recordings of court proceedings, third party witness statements and any other evidence;
- If necessary, seeking clarification or further information from either party or any witness;
- Obtaining any other written statements or interviewing parties and/or witnesses and keeping a record of their evidence;
- That ordinarily a hearing should be conducted. The tribunal will fix a date for the hearing and will notify the parties in writing at least 10 working days prior to the hearing;
- But if a hearing is considered unnecessary, before preparing its report the tribunal shall ensure that the judicial office holder is aware of all of the evidence collected and that he or she has had an opportunity to provide a fully informed response;
- That the hearing shall be inquisitorial in nature and the tribunal may call and question witnesses;
- That the parties shall be entitled to attend and shall be provided with an opportunity to make representations. The tribunal may also invite

the parties to put additional relevant and appropriate questions to witnesses;

- Parties may be accompanied by a representative⁹. This person may make representations and ask questions on behalf of the party, but may not answer questions on behalf of the party; and
- That the tribunal may adjourn if necessary for any reason or proceed in the absence of any party or witness provided that person was notified of the hearing.

7.5 The judicial office holder 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 determining how to dispose of the complaint.

7.6 All decisions of the 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.

7.7 The tribunal will prepare a report summarising its findings, detailing any additional evidence, and making a recommendation as to disposal (including the reasoning for its decision). The report will be sent to the Lord Chief Justice. The Lord Chief Justice will consider the recommendations. He may direct the tribunal to make any additional inquiries he considers necessary.

Review

7.8 The Lord Chief Justice will automatically invite the parties to comment on the tribunal's report. The parties will have 10 working days to submit

⁹ The Tribunal has no authority to make payments or direct that payments be made to cover the cost of representation.

comments in writing. In reaching his final decision, the Lord Chief Justice will have regard to any comments received.

7.9 The Lord Chief Justice will notify the complainant and the judicial office holder of the decision and any action to be taken. Where appropriate the Tribunal President will also be informed.

8. Outcomes

8.1 The Lord Chief Justice's decision will set out whether or how far the complaint has been found to be substantiated, whether or how far the judicial office holder'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. Only those complaints which are upheld will be recorded on the judge's personal complaints file.

8.2 In addition to an explanation and/or apology, one or more of the following may apply:

- No Further Action – this will apply where the complaint is found to be unsubstantiated and the judicial office holder's conduct met the required standard or where the case is not proved.
- Advice/Training/Mentoring – the judicial office holder will be given advice as to his 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.
- Informal Warning – the Lord Chief Justice will issue the judicial office holder with an informal, written warning if his or her conduct is inappropriate but does not merit a formal warning.
- Formal Warning – the Lord Chief Justice will issue the judicial office holder with a formal written warning if his or her conduct failed to meet the required standard.
- Final Warning – the Lord Chief Justice will inform the judicial office holder in writing that his or her conduct has fallen so significantly or

repeatedly short of the required standard, and that further misbehaviour could result in referral to a removal tribunal.

- Restriction of Practice – restrictions may be placed on the types of case assigned to the judicial office holder for a period of time or subject, for example, to training being undertaken.
- Referral to a statutory tribunal (sections 7 and 8 of the Act) – depending on the level of judge involved, a judicial office holder may only be removed by Her Majesty the Queen on address by both Houses of Parliament, or by the Lord Chief Justice. In either case, a statutory tribunal must first consider the case and recommend removal.

Therefore, if the Lord Chief Justice determines that the judicial office holder's conduct fell so far short of the required standard that removal may be warranted, he 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 Lord Chief Justice. A judicial office holder may be suspended from office when a statutory tribunal has been convened.

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

9. Confidentiality and Publicity

9.1 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 processing and investigating the complaint. To ensure that the process is fair, details of the complaint must be revealed to the judge in question, and some information may be revealed to third party witnesses if necessary.

9.2 It will be taken that the complainant accepts that the information submitted 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.

9.3 A public statement or press release in relation to the complaint will normally only be made where it is in the public interest – usually this will be in serious 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.

9.4 Information concerning complaints upheld in relation to an individual judicial office holder may be made available to the Northern Ireland Judicial Appointments Commission if that office holder 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.

10 'Whistle blowing'

10.1 It is recognised that a member of court staff or the legal profession may wish to draw the Lord Chief Justice's attention to the conduct of a judicial office holder. In view of the fact that members of court staff and the profession have an ongoing working relationship with the judiciary, the special provisions outlined in this section shall apply.

10.2 In such a situation the complainant should forward details of their complaint in the normal manner to the complaints officer in the Lord 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 complainant's identity and their statement will not be disclosed to the judicial office holder concerned without the complainant's express written consent. This may, however, limit the scope of the investigation.

10.3 The complaints officer will nonetheless attempt to investigate the matter by seeking to obtain information on the conduct in question from other sources. 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 complainant'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.

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

11. Complaints Statistics

11.1 Statistics will be recorded by the complaints officer on the total number of complaints received, the number of complaints against each tier of judicial office holder, 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.

11.2 Statistical information as appropriate will be made available on the internet and may be requested from the Lord Chief Justice's Office.

11.3 The number and nature of complaints against individual judicial office holders will be monitored.

12. Tribunal Complaints

12.1 Complaints passed by the Lord Chief Justice's Office to a tribunal president's office will be dealt with in the same manner as is outlined above, by the president and his or her complaints officer.

12.2 Complaints received directly by a tribunal president's office will be considered by the tribunal's complaints officer in the same way. If the complaint is outside the scope of the system, the complaints officer shall advise the complainant. If the complaint is clearly within the less 'serious' category the complaints officer should forward a copy to the Lord Chief Justice's Office, but the tribunal complaints officer may proceed to deal with the complaint in the manner outlined above.

12.3 If the complaint appears that it might fall within the 'serious' category, the tribunal's complaints officer should consult the complaints officer in the Lord Chief Justice's Office.

12.4 The timescales summarised in Annex E will also apply to complaints dealt with by the tribunal president and his or her complaints officer.

12.5 The tribunal's complaints officer will establish whether any 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. If investigation is to be delayed, the complainant and the Lord Chief Justice's Office will be informed of the delay and the reason for it. When the proceedings are concluded, the tribunal's complaints officer will contact the complainant and determine whether, in light of the outcome, the complaint still requires to be considered. The tribunal's complaints officer must advise the Lord Chief Justice's Office at this stage if a delayed complaint is to be considered.

12.6 Complaints for determination by the president will be 'less serious.' Where appropriate, the tribunal's complaints officer will attempt to resolve the issue informally in the same manner as is outlined in Part 5.

12.7 If informal resolution is unsuccessful, or the complaint is not suited to informal resolution, the tribunal's complaints officer will investigate it in accordance with the procedure set in Part 6, and will prepare a report for the tribunal president.

12.8 The tribunal president will determine what action is required based on the report; although he or she may make any additional inquiries he or she considers being necessary. If it appears to the president on receiving the report that the complaint might be considered 'serious', he or she should contact the Lord Chief Justice's Office before making a determination.

12.9 The tribunal president or the tribunal's complaints officer will notify the complainant, the tribunal member and the Lord Chief Justice of the decision, and will set out the reasons for the decision.

12.10 The tribunal president may decide to take no further action, to provide advice, training, or mentoring, to issue a warning or to restrict the cases assigned to the tribunal member (or to take a combination of these actions).

Review

12.11 The parties will have 10 working days from notification of the tribunal president's decision within which to apply for a review. This is a review of the process of investigating the complaint to ensure all relevant points have been addressed. It is not a second investigation of the complaint in its entirety. An application for a review should be made in writing to the Lord Chief Justice's Office setting out in full the grounds for the application. The Lord Chief Justice's Office will send a copy of the request to the tribunal president. The Lord Chief Justice may review the handling of the matter, the

findings of the investigation, and the outcome. As part of the review process the other party will be given an opportunity to make representations if the Lord Chief Justice is minded to alter the decision. The parties will be notified of the Lord Chief Justice's decision.

Record Keeping

12.12 The tribunal's complaints officer will keep a file for each complaint received. Statistics on the complaints received, how they were disposed of, and the time taken, will be forwarded to the complaints officer in the Lord Chief Justice's Office. Tribunal Presidents should monitor the complaints received by individual office holders.

Statutory Background

“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

N.I.

- (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) section 12, 12A and 12B 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, 5, 7 and 9 to 9H of this Act (appointment and removal of judicial officers, and appointment and removal of lay magistrates);

- (c) sections 134 and 135 of the Constitutional Reform Act 2005 (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 (5));
 - (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.
- (5) 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 (5) of the Act (as amended):

Part 1 - 'Less serious' complaints against the following office holders will be investigated by the Lord 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 1987¹⁰

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 2003¹¹

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

Member of the Mental Health Review Tribunal

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) 1997¹²

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 Ireland¹³

Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland¹⁴

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 1985¹⁵

¹⁰ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(1)

¹¹ Substituted by the Constitutional Reform Act 2005, s. 15(2), Sch 5, Part 1, para 122(3)

¹² Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹³ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹⁴ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

Member of the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland¹⁶

Member of the panel of chairmen of VAT Tribunals for Northern Ireland¹⁷

General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)¹⁸

President of the Northern Ireland Valuation Tribunal¹⁹

President of the Charity Tribunal for Northern Ireland²⁰

Chairman appointed under Article 7(2)(6) of the Criminal Injuries Compensation (Northern Ireland) Order 2002²¹

Part 2 – ‘Less serious’ complaints against the following office holders will be investigated by the 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

¹⁵ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹⁶ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹⁷ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹⁸ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

¹⁹ Inserted by the Justice (Northern Ireland) Act 2002 (Addition of Listed Judicial Offices etc) Order 2006, SR 2006/469, Article 2

²⁰ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 5, Sch 4, para 35(3)

²¹ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 5, Sch 4, para 35(3)

Member of the panel of chairmen of the Industrial Tribunals²²

Member of the panel of chairmen of the Fair Employment Tribunal

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) 1954

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 Ireland²³

Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland²⁴

Member of the Northern Ireland Valuation Tribunal²⁵

Member of the Charity Tribunal for Northern Ireland²⁶

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 Ireland²⁷

Adjudicator appointed under Article 7(1)6 of the Criminal Injuries Compensation (Northern Ireland) 2002²⁸

²² Inserted by the Constitutional Reform Act 2005, s. 15(2), Sch 1, Part 1, para 122(4)

²³ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

²⁴ Inserted by the Constitutional Reform Act 2005 s. 15(2), Sch 5, Part 1, para 122(5)

²⁵ Inserted by the Justice (Northern Ireland) Act 2002 (Addition of Listed Judicial Offices etc) Order 2006, SR 2006/469, Article 2

²⁶ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 5, Sch 4, para 35(3)

²⁷ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 5, Sch 4, para 35(3)

²⁸ Inserted by the Northern Ireland Act 2009, s. 2, ss. 2, 5, Sch 4, para 35(3)

Categorisation of Complaints

The following list provides examples of the type of complaint that might be considered to be within the 'serious' category (if determined to be within the scope of the system). It is by no means exhaustive, and the decision will depend on the full circumstances of the case.

- Making exceptionally inappropriate remarks, such as comments on a person's religion or racial background.
- Failure to disclose a serious and fundamental conflict of interest.

The possible consequences of the complaint, if upheld, will be taken into account. For instance, if a possible outcome is felt to be referral to a removal tribunal then the complaint will be treated as serious.

The following are examples of the type of complaint likely to be categorised as 'less serious'.

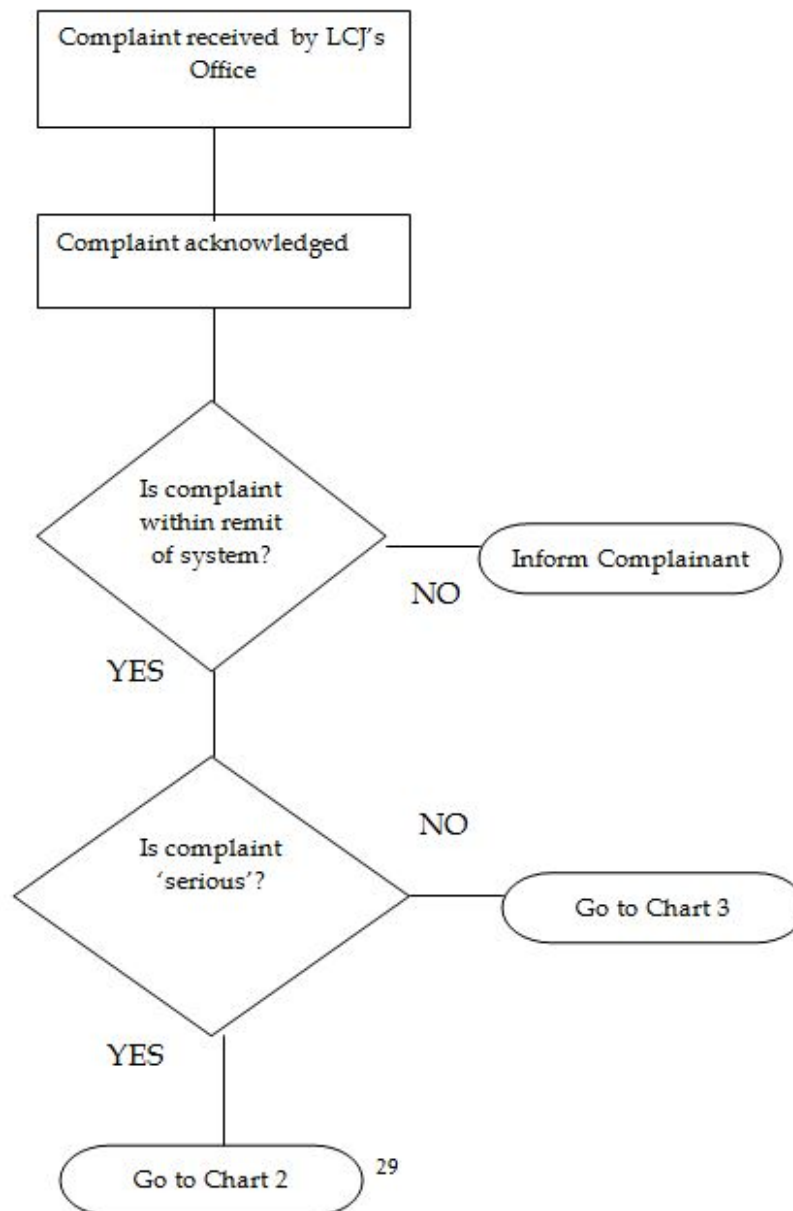
- Rudeness to court users.
- Rudeness to a member of the public at an official function.
- Inappropriate remarks in court
- Inappropriate remarks in a judicial speech.
- Insensitive behaviour, for example towards a vulnerable witness or a member of a minority community.

In determining whether a complaint should be categorised as serious, regard will be given to the judge's record of upheld complaints.

Flow Charts

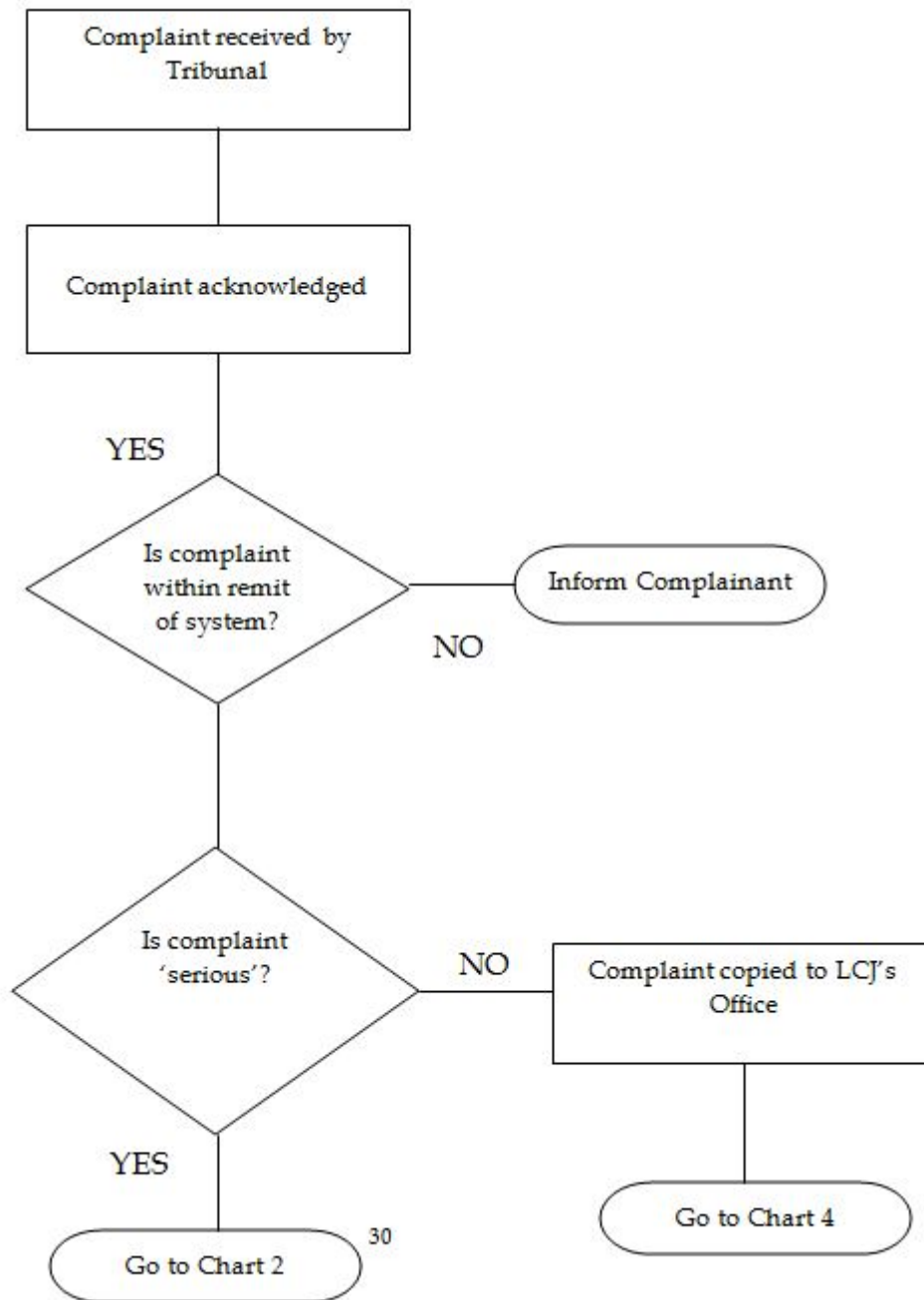
The following flow charts illustrate the basic process followed for serious complaints, non-serious complaints that do not concern a tribunal member, and non-serious complaints that concern a tribunal member.

Judicial Complaints



²⁹ In certain circumstances, the matter may be referred directly to a removal tribunal for investigation.

Tribunal Complaints



³⁰ In certain circumstances, the matter may be referred directly to a removal tribunal for investigation.

Chart 2 - Serious Complaints

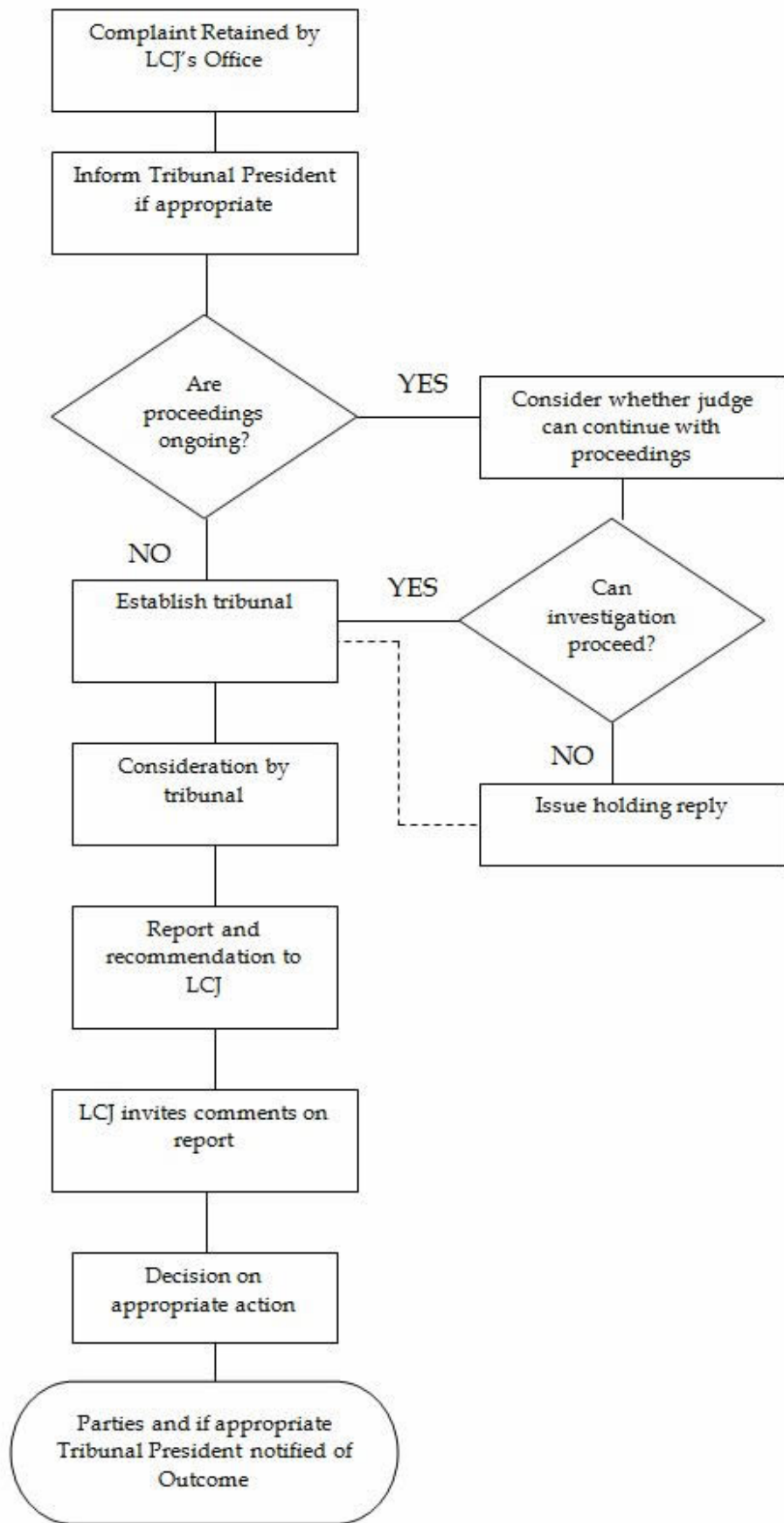


Chart 3 – Other Complaints (Non-Tribunal)

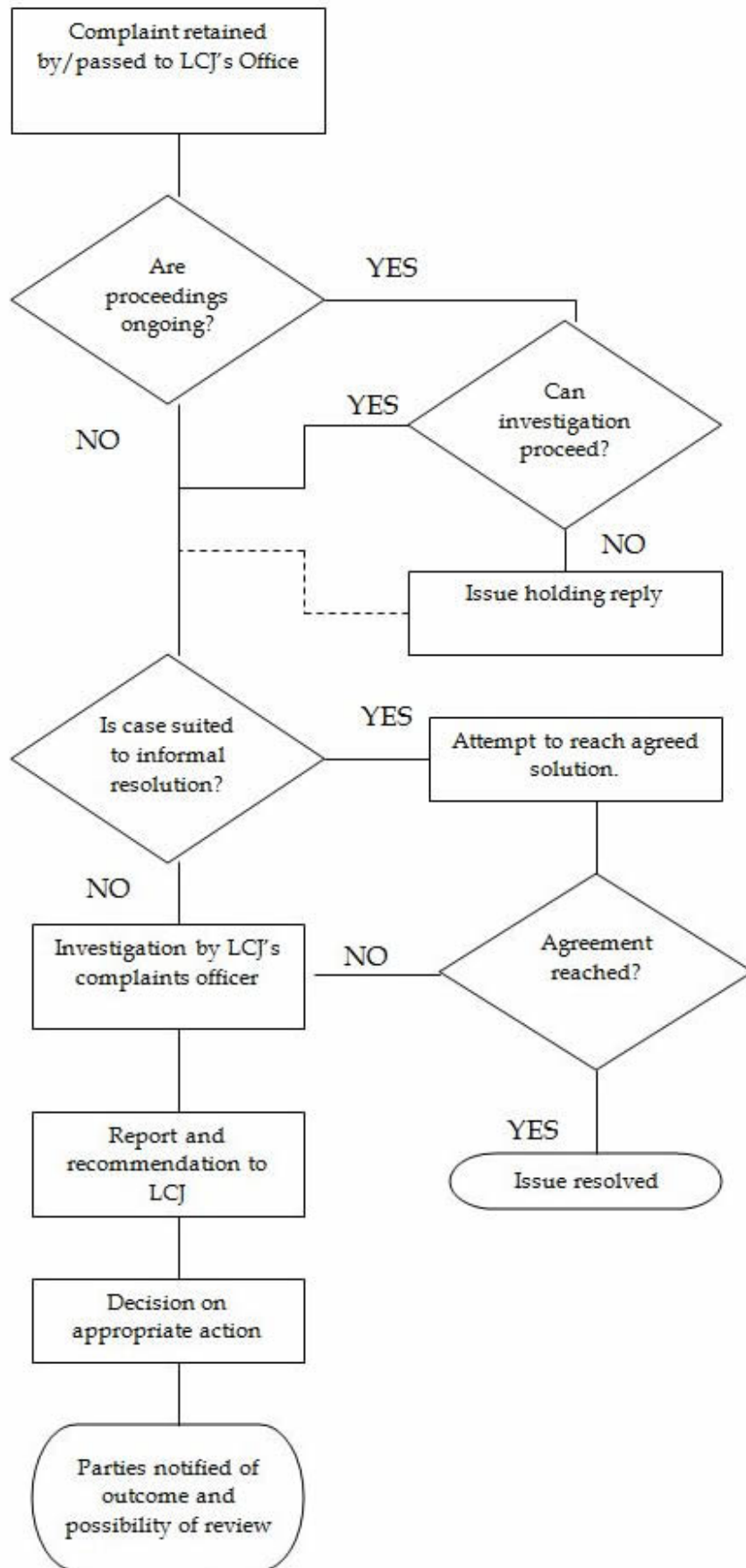
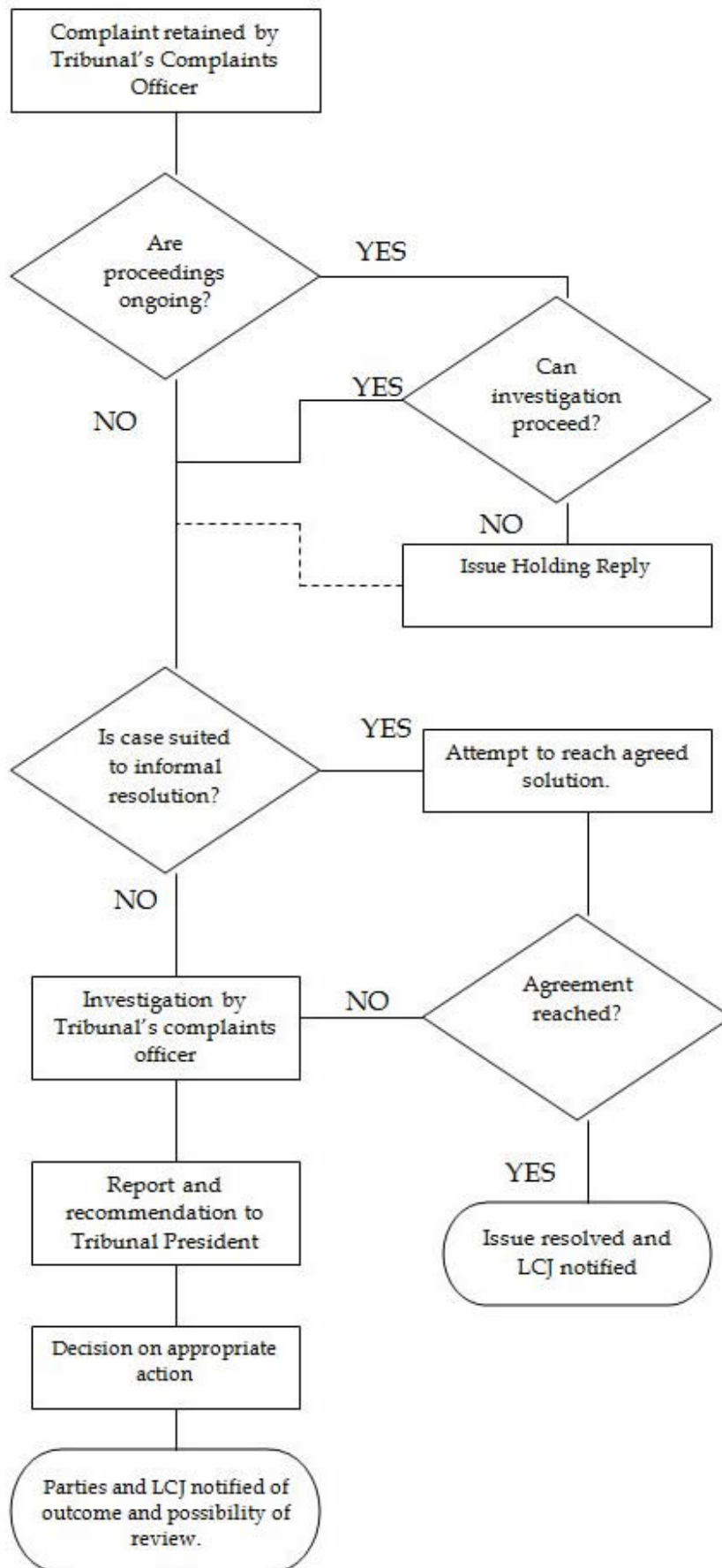


Chart 4 - Other Complaints (Tribunal)



Summary of key Target Times for Processing Complaints

The nature and complexity of the complaints dealt with under this code will vary and consequently the time taken to investigate complaints will vary. The times set out below are however targets.

All Complaints

- All complaints will be acknowledged within 5 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.

'Less Serious' Complaints

- As soon as all the relevant information is received from the complainant the judicial office holder 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 15 working days.
- The complaints officer will prepare a report within 10 working days of receiving all the relevant information.
- The parties will be notified of the Lord Chief Justice's or the Tribunal President's decision within 5 working days of the decision being taken.

'Serious' Complaints

- The parties will be notified within 5 working days of a complaint being referred to a complaints tribunal.
- A timescale for the tribunal's investigation will be determined by the chairman.
- 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 Lord Chief Justice's decision within 5 working days of the decision being taken.

Further Correspondence

- If at any point in the process it is necessary to seek further information from the complainant, the judicial office holder, or a third party witness, the request will include a timescale for that person to reply. The timescale will depend on the nature of the information sought and other circumstances (such as the time taken so far and whether the request issues at a holiday period).

Contact Details

Complaints should be submitted in writing to the following address:

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

Or by e-mail to:

JudicialComplaints@courtsni.gov.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.