



How to complain about the judicial conduct investigations process

Who we are

We are the office that supports the Judicial Appointments and Conduct Ombudsman (JACO). The Ombudsman is independent of Government, the Ministry of Justice and the Judiciary.

We look into complaints made about **the Judicial Conduct Investigations Office (JCIO), a Magistrates' Advisory Committee or a Tribunal President**, who have looked at complaints about judicial office holders' personal conduct. We call these organisations '**investigating bodies**' and this term will be used throughout this leaflet.

The role and powers of the Ombudsman are set out in the Constitutional Reform Act 2005.

What we do

We look at complaints about investigating bodies and the way they have handled complaints about a judicial office holder's personal conduct. **You must have made a complaint to an investigating body, about the judicial office holder you are unhappy with, before coming to us.**

We cannot look at complaints about judicial office holders.

Only an investigating body can look at a complaint about a judicial office holder. It can only look at their personal conduct and cannot look at complaints about a judicial office holder's decision or the way they managed a case.

Details of what an investigating body can look at and how to make a complaint to one can be found on the following website: **www.complaints.judicialconduct.gov.uk**

We usually expect you to have completed the complaints process with the investigating body and to have received a final decision on your complaint before you come to us.

We are not a route of appeal if you are simply unhappy with the decision you have received from the investigating body. Rather, you can come to us if you think that something has gone wrong in the process followed by the investigating body in reaching its decision.

When investigating bodies make significant mistakes in the handling of your complaint, we call this **maladministration**. It is not possible to provide a full definition of maladministration as it covers many things and depends on the circumstances of each case.

Examples of maladministration might be an investigating body:

- **missing a part of your complaint**
- **not looking at relevant information when reaching its decision**
- **significantly delaying answering your complaint**
- **not keeping you informed about the progress of your complaint**
- **not giving you the opportunity to explain why you did not make your complaint in time**

If you are still not sure if we can investigate your complaint or if it is ready to be looked at by us, please contact us by e-mail at headoffice@judicialombudsman.gov.uk where you can also request to be called if you want to speak to us.

You can also contact us if you need any **special assistance**.

How we are different to an investigating body

An investigating body looks at the judicial office holder (a judge, magistrate or tribunal member) and asks the question:

“Did their actions amount to misconduct?”

We (JACO) look at that investigating body and ask the question:

“Did they follow an appropriate process in deciding whether a judicial office holder’s actions amounted to misconduct?”

What we can and can't help with

We can investigate complaints about:

- the JCIO
- a Magistrates' Advisory Committee
- a Tribunal President

We can look at complaints about how these investigating bodies handled complaints about the personal conduct of judicial office holders.

We cannot investigate complaints about:

The personal conduct of a judicial office holder	Only an investigating body can look at the personal conduct of judicial office holders
The decision of a judicial office holder / the outcome of a case	These are matters that can only be addressed through the courts
The decision of an investigating body	We are not a route to appeal against the decision of an investigating body. We do not look at the same issues (see above) and cannot comment on whether its decision was right or wrong. We can only consider the process it followed, in reaching its decision, to determine whether it was proper and fair

We cannot investigate complaints about or the handling of complaints about:

- **court staff** (see GOV.UK for court information and addresses)
- **a barrister** (please contact www.barstandardsboard.org.uk)
- **a solicitor** (see www.lawsociety.org.uk)
- **the police** (please contact www.policeconduct.gov.uk)
- **any alleged criminal activity including fraud and corruption** (for example, taking bribes)

Time limits

You should get your complaint to us as soon as possible after you have had a final response from the investigating body whose process you're not happy with. You need to make your complaint to us within **28 days** of the final response from the investigating body.

Normally, if we receive a complaint outside these time limits, we cannot investigate it. However, if you were not able to complain to us in time you can explain to us why you did not complain sooner. The Ombudsman will look at your reasons and decide whether to accept the complaint.

What you can expect

The Ombudsman decides if your complaint has been handled properly and fairly by the investigating body by looking at whether it has followed relevant legislation and guidance.

Details of this legislation and guidance can be found on the information page of our website

www.gov.uk/government/publications/judicial-conduct-remit-and-information-about-complaints

or on the JCIO's website

www.complaints.judicialconduct.gov.uk/rulesandregulations

If we decide that the investigating body got things wrong, resulting in a negative effect on you, we can recommend what it should do about this.

What we can recommend

We can ask an investigating body to:

- **take action to put things right for you.** This could mean recommending that the investigating body: acknowledge its mistakes, apologise to you or, in extremely rare cases, provide compensation (usually under £100) if you have suffered a loss as a direct result of the mishandling of your complaint
- **look at a decision it has made again.** We can only ask it to do this if it is clear it made mistakes, acted unfairly, or didn't follow its process when making its decision and this makes the decision unreliable
- **improve its services to avoid the same issues happening again.** This can include asking an investigating body to review its policies or procedures, guidance or standards

What we can't recommend

We can't make:

- an investigating body discipline or remove a judicial office holder from office
- a judicial office holder change their decision
- an investigating body change a decision it is entitled to make as part of its responsibilities or replace its decision with our own
- an investigating body change its policies or procedures, guidance or standards, or replace these with our own

How we deal with complaints

Step 1: When you first contact our office

What happens?

We do some initial checks to make sure we can deal with your complaint. This includes checking that:

- we can look into the investigating body and issue you're complaining about
- you have been through the investigating body's own complaints process first
- you have given us permission to tell the investigating body about your complaint to us and let it provide us with papers relating to how it looked at your complaint

How long does this take?

We aim to complete these checks within five working days.

What can we decide?

If we can deal with your complaint, we will let you know and refer it on to step two.

If we can't take your complaint forward, we will try to give you information about what you can do next. This includes giving advice on how to complain to the investigating body you are unhappy with, if you haven't done this already.

Step 2: Deciding whether to investigate your complaint

What happens?

We take a closer look at your complaint to decide if we should investigate. We look at a number of things, including:

- whether you complained to us within 28 days of the final response of the investigating body
- whether there are signs the investigating body potentially got things wrong in how it handled your complaint that have had a negative effect on you that hasn't been put right

How long does this take?

We aim to give you our decision within six weeks of receiving the papers relating to how the investigating body looked into your complaint.

What can we decide?

If we decide to investigate your complaint, we will let you know what will happen next.

If we decide not to investigate your complaint, or parts of it, we will provide you with a report from the Ombudsman that explains why. We will let you know if there are any other options open to you.

Around 70% of the complaints that get to this stage are concluded without going forward to step 3.

Step 3: Investigating your complaint

What happens?

Your case will be allocated to a member of staff at the JACO office. We call this person an investigating officer. The investigating officer takes a more detailed look at the case by gathering all the information needed. Your chance to tell us your concerns about the investigating body is given when you make your complaint to the JACO office. If necessary, the investigating officer may ask you for more information. It is also open to you to provide any further information, relevant to the process the investigating body followed, during the course of your complaint. The investigating officer will also give the investigating body a chance to comment on the concerns raised. The investigating officer will provide advice to the Ombudsman to help him make his decision which will be set out in a report. If a full investigation is completed, a draft of the Ombudsman's report is sent to the Lord Chancellor and Lord Chief Justice to see if they want to comment. A copy of the Ombudsman's final report, including the decision on your complaint, is then sent to you. During this process, unless otherwise stated, we will update you each month.

How long does this take?

Most of our investigations are completed within six to nine months. More complex investigations may take longer than this.

What can we decide?

If we uphold your complaint it means we found the investigating body got things wrong in the handling of your complaint and you have been negatively affected because of this. It also means we can make recommendations so the investigating body can put things right.

Of the complaints we investigate each year under step 3, we uphold, in full or in part, around 20%.

After receiving the Ombudsman's decision

The Ombudsman's decisions are final and there is no right of appeal.

Requesting a review of the final decision

You can request that the Ombudsman review his decision by showing that any one of the following reasons apply:

- **The Ombudsman has overlooked a point of complaint that would impact his findings**
- **The Ombudsman has relied on information that you can demonstrate is inaccurate in making his decision**
- **You have new information about the investigating body's handling of your complaint, which may affect the Ombudsman's decision**

You can write to the Ombudsman at headoffice@judicialombudsman.gov.uk and ask him for a review, giving specific details of your concerns. You must do so within twenty-eight days of receiving his final decision. If you have asked for a review, the Ombudsman will decide whether what you have said would require him to do so and will write to you regarding this. We aim to provide his response within twenty-eight days of your request for a review. Once the Ombudsman has responded to your request for a review, he will not correspond further.

Judicial Review

You can apply to the High Court to challenge the Ombudsman's decision because it is legally flawed – this is called judicial review. Judicial review is a remedy of last resort and should only be used if you wish to challenge the Ombudsman's decision on the grounds that the decision reached by him was unlawful, illegal, irrational, or unreasonable (in accordance with the legal meanings of these words). Your concerns must relate to the lawfulness of the Ombudsman's decision about whether there has been maladministration and not wider concerns, for example about an investigating body's decision or a judicial office holder's conduct. If you want to apply for judicial review or have any queries relating to its process, you will have to act quickly and you may need to seek independent legal advice, for example from a solicitor, law centre or Citizens Advice Bureau.