

# Annual Report 2022-23



Judicial Appointments & Conduct Ombudsman  
**Annual Report 2022-23**

**Presented to Parliament pursuant to Paragraph 15(4) of Schedule 13  
of the Constitutional Reform Act 2005**



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# The Judicial Appointments and Conduct Ombudsman

## The Ombudsman

The Judicial Appointments and Conduct Ombudsman (JACO) is Mr Douglas Marshall. He was selected following an open competition and appointed in March 2021, by Her Majesty the Queen, on the Lord Chancellor's recommendation.

## The Ombudsman's role

The JACO is independent of Government, the Ministry of Justice (MoJ), the Judicial Appointments Commission (JAC) and the Judiciary. The JACO's role and powers are set out in the Constitutional Reform Act 2005. This allows him to consider the following types of complaints.

### *Complaints about the Judicial Conduct investigations process*

The JACO can:

- Look at complaints made about Investigating Bodies (the Judicial Conduct Investigations Office (JCIO), a Magistrates' Advisory Committee or a Tribunal President)<sup>1</sup> and how they have handled complaints about Judicial Office Holders' personal conduct. Such concerns can be raised by "interested parties", i.e. a complainant or a current or former Judicial Office Holder, whose actions have been the subject of an investigation. The JACO generally requires that complainants have concluded their dealings with the Investigating Body before he will consider a complaint.
- Decide whether there has been a failure by the Investigating Body to follow prescribed procedures (The Judicial Discipline (Prescribed Procedures) Regulations 2014) or some other maladministration.

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<sup>1</sup> The Lord Chancellor and the Lord Chief Justice (or a Designated Judge, acting on his behalf) may be involved later in the process as only they can impose a sanction on a Judicial Office Holder.

- Make recommendations for redress. For example, the JACO can:
  - Set aside an Investigating Body's decision and direct that a new investigation or review be undertaken (in whole or in part), in cases where maladministration led to the Investigating Body's decision being unreliable.
  - Make recommendations about how an Investigating Body can improve its handling of complaints.
  - Recommend payment of compensation for loss suffered as a result of maladministration by the Investigating Body.

### *Complaints about the Judicial Appointments process*

The JACO can:

- Look at complaints from candidates for judicial office who claim to have been adversely affected, as a candidate for selection or as someone selected for Judicial Appointment, by maladministration in the way their application for appointment, and/or subsequent complaint, was handled.
- Make recommendations for redress. For example, the JACO can recommend payment of compensation for loss suffered as a result of maladministration, but not as a result of any failure to be appointed.



## Foreword

This is my third Annual Report. As ever, and important for comparison, the report contains a lot of statistical analysis. Of course, there is always much more behind these statistics, some investigations can be protracted and take many months to conclude. In some cases, intervention from my office early on can lead to matters complained of being swiftly dealt with by the Investigating Body.

I continue to try and give constructive feedback where I can try to improve service to complainants. In a similar vein to my last report, the year of investigations I am reporting on has been concluded by a team of dedicated staff operating under strength. We have recently been successful in a recruitment exercise in adding to our team of investigators. I am very grateful to the staff who have concluded the investigations subject of this report.

What I am hoping, as the department is back at full strength, is to reduce the amount of time it takes to conclude our investigations and bring swifter conclusions for complainants.

I have tried to manage expectations at an early stage in complaints regarding exactly what I can investigate and what I am unable to. I continue to try and increase understanding of my tight remit and emphasise that I can only look at the process followed and not the decision. This isn't easy sometimes for complainants who understandably, in many cases, haven't been involved in this type of process before and clear explanation is key.

A concern over the last 12 months for me is how some complainants have become very abusive when they perceive an injustice in the system. This is unacceptable, particularly when aimed at my office. I am "independent" in my decision making and all investigations of complaints are concluded on the evidence, according to the rules in the Constitutional Reform Act, and nothing else. Abusive conduct and personal attacks have no place in the system.

Judicial Appointments continue to attract few complaints and I have seen that those received undergo a robust investigation process. This continues a trend going back to the commencement of the Ombudsman role. This instils confidence in that system for those applying for positions within the judiciary.

The incidence of maladministration within Judicial Conduct investigations also remains low considering the vast number of investigations undertaken each year. I continue to proactively raise occasions when I see a particular trend or recurring theme reported by complainants.

The fact that 85% of complaints have been concluded by a Preliminary Investigation Report, complainants have been signposted to which parts of their complaint can proceed to Full Investigation and there have been less Full Investigations overall are interlinked and indicative of the work carried out by my office to focus on those investigations where there is a possibility, at the outset, there may have been maladministration. It also manages the expectations of complainants when clearly there is no prospect.

Whilst the volume of complaints and correspondence continues to be a challenge, the service to complainants remains central to the work and thinking in my office. Each complaint receives the analysis and attention it deserves.

**Douglas Marshall**

## Performance<sup>2</sup>

This chapter provides information about the process followed in handling enquiries and complaints, the volume received, the stage at which matters were concluded, the outcome of complaints, and the extent to which the JACO Office has met its targets.

### Summary

Compared to 2021/22, the JACO Office received 2% more correspondence (1496 pieces compared to 1469) that could be classified as either an enquiry or a complaint. The JACO Office met its target to acknowledge receipt of new complaints and correspondence within 5 working days of receipt in 98% of cases and to deal with correspondence within 15 working days of receipt in 90% of cases.

The JACO considered 12% less cases (240 compared to 272) to determine whether issues within his remit warranted further investigation. 19% more cases (205/240 compared to 192/272) were concluded by way of a Preliminary Investigation Report than in 2021/22.

The increase in the percentage concluded by way of a Preliminary Investigation Report reflects the ongoing desire to provide timely decisions and to manage the JACO Office resources effectively to focus on cases requiring further investigation. Within this, the JACO Office was able to continue to meet, and indeed exceeded, its target to provide an initial decision within 6 weeks of receiving enough information to enable the JACO to consider the complaint in 90% of cases.

The continued impact of the increased workload in 2021/22, alongside the complexity of the cases addressed and ongoing understaffing<sup>3</sup> was evident in the: 24% decrease in the cases concluded by the JACO following a Full Investigation; and increase

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2 Throughout this report (including the Annex B Case Studies) those involved are referred to as “they”. This is purely to assist anonymity.

3 The departure of staff who had joined the JACO Office in 2021/22, alongside challenges in the recruitment process, meant that the JACO Office was not fully staffed until March 2023.

in the time taken to complete such Full Investigations. Throughout, the JACO Office sought to alert complainants to potential delays and to keep them updated about the progression of their cases. It exceeded its target to keep all complainants fully informed on a monthly basis in 98% of cases. The focus in 2023/24 will, again, be on training new staff and streamlining processes to ensure that the backlogs and delays in commencing investigations, which contributed to the overall time taken to conclude cases, can be reduced.

It remains the case that the incidence of maladministration has been low. The JACO upheld or partially upheld only 28% (14) of the cases determined following a Full Investigation. This is 10% higher than the percentage upheld or partially upheld in 2021/22 (14/50 compared to 12/66) and slightly above the average over the previous 10 years. This broadly reflects the impact of COVID-19 on the Investigating Bodies' complaint handling processes. The JACO used his powers to set aside a decision in 2 cases and made systemic recommendations in 2 cases. These low figures reflect an ongoing proactive approach by Investigating Bodies, who have sought to address issues brought to their attention by the JACO Office, during its investigations. This is welcomed by the JACO.

The JACO Office achieved all the targets set out in the 2022/23 Business Plan (see Annexes D and E).

The JACO Office remains committed to providing a high level of service in 2023/24.

## **Case work process**

The JACO Office follows a three-step process in handling enquiries and complaints which is set out below.

### *1. Initial check*

The JACO Office receives enquiries by telephone, email and in the post. The JACO Office aims to acknowledge all enquiries within 5 working days of receipt. The JACO Office carries out initial checks to determine whether it can deal with the complaint. This includes checking: whether the complainant has had a matter considered by an Investigating Body; and whether that matter has been concluded<sup>4</sup>. If this is not the case, and the enquiry has not been addressed by information contained in the JACO Office's automatic acknowledgment of emails, then it will, where possible, seek to provide further information in order to assist the enquirer in deciding what they might do next. If the enquirer has made a relevant complaint to an Investigating Body, which has been concluded, and the JACO Office has sought and received any further information needed to progress the complaint, it is passed for a Preliminary Investigation.

### *2. Preliminary Investigation*

Complaints that appear to be matters that the Office can deal with are given a detailed initial evaluation to determine whether they might warrant a Full Investigation<sup>5</sup>. The JACO Office obtains complaint papers from the Investigating Body. Based on these and the complainant's correspondence, it prepares advice for the JACO to consider. The JACO decides whether the case must be passed for a Full Investigation based on whether:

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4 The JACO can consider cases where the application is made on grounds alleging undue delay in the Investigating Body addressing a complaint and the JACO considers that the application has been made within a reasonable time (generally considered as following a period of over six months delay).

5 This is referred to as a "Review" in Section 110 of the Constitutional Reform Act 2005, which also sets out the criteria for undertaking such a view.

- He considers it necessary. In most cases this entails the JACO forming a view as to whether he can rule out the possibility that the issues which the complainant raised might lead to a finding of maladministration.
- The complaint has been made within 28 days of the complainant being notified of the decision reached by the Investigating Body<sup>6</sup>.
- The complaint has been made in a form approved by the JACO.

If any of the above criteria are not met, a letter or Preliminary Investigation Report is provided to the complainant, explaining the JACO's decision and his reasons for not progressing the case. If the criteria are met, the case is passed for a Full Investigation. The JACO Office aims to provide a decision on whether the case will be progressed within six weeks of receiving the complaint papers from the Investigating Body.

The Preliminary Investigation process is focused on the complainant and ensuring that they receive a decision within a reasonable timescale, particularly if there is no prospect of the JACO making a finding of maladministration. It is also central to the JACO Office managing its workload within the allocated resources, enabling it to concentrate on the cases where there are issues that require more detailed analysis.

### *3. Full Investigation*

Full Investigations involve detailed and comprehensive investigation of cases and often require engagement with large volumes of complex documentation. In determining cases that are passed for Full Investigation, the JACO takes into account complainants' correspondence and liaises with other parties.

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<sup>6</sup> Under sections 110(4) and (9) of the Constitutional Reform Act 2005, complaints to the JACO have to be made within 28 days of the complainant being notified of the decision reached by the Investigating Body's response to their complaint. This deadline can be extended at the JACO's discretion.

The JACO considers that it is appropriate to give Investigating Bodies the opportunity to provide their observations on the process they have followed and to comment on possible findings emerging from investigations. The JACO assesses such responses critically, considering the available evidence. Relevant content from the responses is included in the final reports provided to complainants.

In addition, in cases where a Full Investigation is necessary, the JACO is required to refer his report, in draft, to the Lord Chancellor and either the Lord Chief Justice (in respect of Judicial Conduct matters) or the JAC Chairman (in respect of Judicial Appointments matters) and to take account of comments made in finalising his views.

Most Full Investigations, when the JACO Office is fully staffed, are completed within six to nine months. More complex investigations may take longer than this. The JACO Office seeks to keep people whose concerns have been referred for further investigation informed about the progress of their complaint. This is generally done monthly, unless a complainant is advised otherwise. For example, after draft reports have been referred to the Lord Chancellor and either the JAC Chairman or the Lord Chief Justice, complainants are generally advised that there will be no update the following month as it would be unlikely that a reply would have been received.

## **Correspondence received**

**The JACO Office received 25% more correspondence than in 2021/22.**

The JACO Office received 3390 pieces of correspondence during 2022/23<sup>7</sup>, the majority of which was received electronically. This figure is 25% higher than the 2711 pieces received in 2021/22 and reflects an upward trend over the past 10 years.

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<sup>7</sup> It is not uncommon for people who contact the JACO Office to send multiple e-mails on the same business day. The analysis in this report treats all e-mails received in the same day as one piece of correspondence, regardless of the number of e-mails actually received on the same day. However, from 1 April 2023 all correspondence will be counted in order to reflect that each piece requires reading, even if no response is required.

### *Enquiries and complaints received*

**The JACO Office received 2% more correspondence than in 2021/22 that could be classified as either an enquiry or a complaint.**

Of the 3390 pieces of correspondence, 1496 were enquiries and complaints. This reflects a 2% increase on the 1469 enquiries and complaints received in 2021/22.

The vast majority (98%) of the enquiries and complaints received, that were within remit, came within the JACO Judicial Conduct investigations remit.

### *Performance against targets*

**The JACO Office met its targets to acknowledge receipt of new complaints and correspondence within 5 working days of receipt in 98% of cases and to deal with correspondence within 15 working days in 90% of cases.**

The JACO Office met its target to acknowledge receipt of 98% of all new complaints and correspondence from complainants, within 5 working days of receipt and to deal with 90% of all correspondence received within 15 working days of receipt.

This was largely achieved through the automatic acknowledgement of correspondence received by email<sup>8</sup>.

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<sup>8</sup> It is noted that due to technical difficulties associated with the introduction of an updated automatic response, emails to the office did not receive an automatic acknowledgment in March 2023. However, unless no response was necessary (e.g. it was a general marketing email, addressed to multiple recipients and/or was from someone previously advised of the JACO's remit about matters that fell outside it) an acknowledgment and response was still provided by the office within 5 working days.



## Initial checks

**71% of the enquiries and complaints received were concluded following an initial check as they were found to fall outside the JACO remit or were otherwise not taken forward. This is a 16% increase on the figure in 2021/22.**

### *Outcome of initial checks*

Of the 1496 enquiries and complaints, 1060 were found to fall outside the JACO remit or were otherwise not taken forward. This represents 71% of the total enquiries and complaints received. It is a 16% increase on the 55% (813/1469) in this category in 2021/22.

It is the case that the title “Judicial Appointments and Conduct Ombudsman” is often seen as implying a far wider role than the JACO’s very narrow statutory remit. Consequently, the JACO Office is regularly contacted by people raising issues arising from cases in which they have been involved. These commonly include concerns about:

- Issues arising from court cases and observations about those involved with the cases in question, for example solicitors, barristers, and HM Courts and Tribunals Service staff:

Whilst often keenly felt, these are not issues which fall within the JACO’s remit to comment on or which might form the basis of a complaint that an Investigating Body could consider. In these circumstances, the JACO Office will seek to explain why the concerns cannot be dealt with by the JACO and, where possible, look to provide information about other potential avenues to pursue.

- Judicial Office Holders:

Such matters might form the basis of a complaint to an Investigating Body. However, whilst the JACO Office will not advise people that they cannot complain to the relevant Investigating Body, it is keen to avoid giving people unrealistic expectations. It therefore seeks to direct people to information about the kinds of issues that can be considered under the Judicial Conduct arrangements (which are intended only to consider whether there are issues in Judicial Office Holders’

conduct that might warrant the Lord Chancellor and Lord Chief Justice (or Lord Chief Justice's Designated Judge) imposing a disciplinary sanction) and those which relate to judicial decisions and judicial case management, which can only be addressed through the courts.

Such correspondence also includes concerns about Investigating Bodies, but which cannot be taken forward. If it is possible that concerns expressed may lead to a complaint that the JACO can consider, the JACO Office: will ensure that potential complainants are aware of the JACO remit; will explore whether they wish to pursue concerns with the JACO in the light of that remit; and, if so, to explain what is needed. However, some correspondence cannot be progressed because:

- The complaint to the Investigating Body has not yet been concluded:

In these circumstances, unless there is evidence of undue delay, which might require the JACO's intervention, the JACO Office will provide information about the JACO remit and advise the complainant to write again following the Investigating Body's decision, if they think there are issues with how their complaint was handled.

- The complaint is about the Investigating Body's decision and, the complainant, having been given information about the JACO's remit and the opportunity to set out concerns about the Investigating Body's process, does not do so:

The JACO is not a route of appeal if people are simply unhappy with the decision received from the Investigating Body as he cannot review the merits of any decision reached or reconsider the question of whether a Judicial Office Holder's actions might amount to misconduct. Rather, the JACO can only look at the process followed by the Investigating Body in reaching its decision.

A JACO determination that there has been maladministration in the process may have implications for the Judicial Office Holder originally complained against if it means that an investigation into their conduct is reopened. However, it does not mean that a Judicial Office Holder's actions might amount to misconduct; and conversely, the Courts may find that a decision reached in respect of a Judicial Conduct matter was flawed even if the JACO were to find that an appropriate process was followed.

- The complainant, having been given an opportunity to do so, does not provide the required "permission to disclose":

The JACO Office requires complainants to provide explicit consent for their complaints to be disclosed to the Investigating Body complained against and for the Investigating Body to provide its papers.

There was also 1 instance in which a complaint was closed following the receipt of correspondence which contained abusive and offensive language.

## Preliminary Investigations

### *Volume considered*

**The JACO considered 12% less cases, to determine whether issues within his remit warranted further investigation, than in 2021/22.**

	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Volume Considered</b>	279	268	235	272	240

The JACO considered 240 cases relating to his Judicial Conduct Investigations remit to determine whether issues within his remit warranted further investigation. This reflects a 12% decrease on the figure of 272 in 2021/22 and is at the lower end of the scale in terms of the figures over the last 5 years. This is potentially indicative of a return to business as usual after the difficulties arising from COVID-19 and of improvements made by Investigating Bodies to

their complaint handling processes. In 2023/24, the JACO office will be monitoring the impact of the transfer of Tribunal conduct complaints to the JCIO.

### *Outcome of Preliminary Investigations*

**14% more cases were concluded by way of a Preliminary Investigation Report than in 2021/22.**

	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Volume Concluded by PIR</b>	191	182	144	192	205
<b>Percentage of Volume Considered</b>	68%	68%	61%	71%	85%

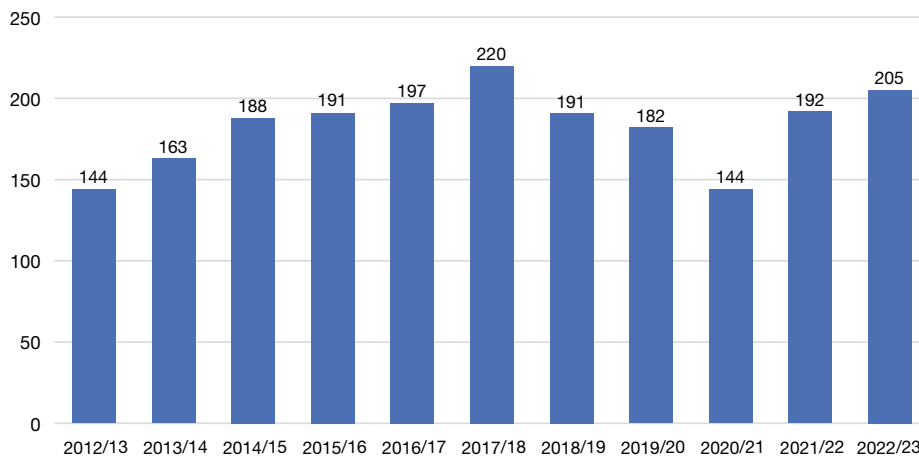
Of the 240 cases considered:

- 204 (85%) were concluded at this stage by way of a Preliminary Investigation Report.
- 36 (15%) were passed for Full Investigation.
- 1 of the 36 cases, which were initially passed over for further investigation, was subsequently concluded by way of a Preliminary Investigation Report. A further 6 cases had been passed for further investigation in 2021/22 and were concluded by way of a Preliminary Investigation Report in 2022/23.
- in 5 of the 36 cases passed over for further investigation the investigations were split, i.e. complainants were advised that concerns about delay would receive a Full Investigation but that concerns about how the substance of the complaints were handled would not be progressed as there was no prospect of the JACO making a finding of maladministration.

The figure of 85% reflects a 19% increase in the percentage of cases (180/272 (66%)) concluded at the Preliminary Investigation stage compared to 2021/22. It is also a 14% increase on the overall number of cases concluded by way of a Preliminary Investigation Report (192/272 (71%)), given that in 2021/22 there were 12 cases

which were initially passed for further investigation, which were subsequently concluded by way of a preliminary investigation report, whereas there were only 7 such cases in 2022/23.

Cases concluded by way of a Preliminary Investigation Report since 2012/13



The percentage of cases concluded by way of a Preliminary Investigation Report (85%) is the highest it has been over the last 5 years. This and the introduction of split investigations reflects an ongoing focus on ensuring that complainants' expectations are managed by the receipt of timely decisions. This is a key consideration as Full Investigations are very detailed and can take many months. There is no point in proceeding with such investigations if there is no prospect that the JACO would find maladministration and uphold the case. In order to ensure that decisions are made at the right time, there has been a continued increase in the number of enquiries made with Investigating Bodies as part of the Preliminary Investigation process.

#### Cases concluded by way of a Preliminary Investigation Report by Investigating Body:

- 127 (62%) were about matters considered by the JCIO (-5%).
- 73 (36%) were about matters considered by Tribunals (+5%).
- 5 (2%) were about matters considered by an Advisory Committee (-0%).

### Cases concluded by way of a Preliminary Investigation Report by reason:

- 202 (99%) were concluded as the JACO found there was no prospect of finding maladministration.
- 3 (1%) were concluded as the JACO found that the complaint to JACO had been made more than 28 days after the complainant had been notified of the Investigating Body decision and it was not appropriate, in all the circumstances, to accept the complaint “out of time”.
- No cases were determined on the basis that they had not been made in a form that the JACO had approved.

### *Issues considered in cases concluded at initial Preliminary Investigation*

The main issue which the JACO considered, in respect of cases concluded at the Preliminary Investigation stage, was whether the Investigating Body had followed an appropriate process in: either rejecting complaints on the basis that they were outside the Investigating Bodies statutory remit (approximately 28% raised this issue) or were out of time (approximately 11% raised this issue); or dismissing them on the basis that were about judicial decisions or judicial case management and did not raise a question of misconduct (approximately 48% raised this issue).

### *Performance against targets*

**In 95% of Preliminary Investigations the JACO Office provided a decision within 6 weeks of receipt of a fully particularised complaint.**

The JACO Office exceeded its target to conclude 90% of Preliminary Investigation evaluations and provide a full reply within 6 weeks of receiving the Investigating Body’s complaint papers or enough information to determine the complaint. This was achieved in 98% of cases. In 194 cases (95%) the complainant received an outcome within six weeks of the receipt of full details of their complaint. In a further 6 cases (3%) the outcome was received within six weeks of the receipt of the Investigating Body’s papers. In the remaining 4 cases (2%) the outcome was outside the target response time

in 3 instances as further enquiries with the Investigating Bodies were necessary and in 1 instance as the complaint was put on hold pending the outcome of legal proceedings.

## Full Investigations

### *Volume determined*

**The JACO concluded 24% less cases following a Full Investigation than in 2021/22**

	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Volume Concluded following a Full Investigation</b>	88	84	76	66	50

The JACO determined 50 cases following a Full Investigation during 2022/23 (this included cases in which an investigation had been ongoing at the end of March 2022). This is a 24% decrease from the figure of 66 in 2021/22 and reflects a general decrease since 2018/19. It is the lowest figure concluded in the previous 10 years<sup>9</sup>.

### Complaints determined by Investigating Body

Of the 47 cases which the JACO determined under his Judicial Conduct Investigations remit following a Full Investigation:

- 38 concerned matters considered by the JCIO. This included:
  - 1 case concerning the JCIO's handling of concerns expressed about a Coroner's actions.
  - 1 case which involved consideration of the JCIO's handling of Judicial Conduct matters referred by an Advisory Committee.
- 9 concerned matters considered under the Judicial Conduct arrangements by Tribunal Presidents (or their delegates).

<sup>9</sup> The average number of cases determined following a Full Investigation between 2012/13 and 2021/22 was 76 and has ranged from a low of 63 to a high of 92 in this period.

- 1 concerned matters considered under the Judicial Conduct arrangements by an Advisory Committee, which was referred for further consideration by the JCIO.
- 1 case was instigated by a Judicial Office Holder (a Magistrate) who asked the JACO to review the process by which concerns about their actions had been considered by an Advisory Committee and the JCIO.

In addition:

- there were 7 instances<sup>10</sup> during the year in which cases referred for further investigation were concluded without a Full Investigation being conducted as it became clear, during the further investigation process, that there was no prospect of the JACO finding maladministration.
- there was 1 instance in which the complainant either explicitly or by effect withdrew their complaint.
- there were 4 instances where the Investigating Body agreed to undertake further investigations following initial enquiries made by the JACO Office.
- at the end of March 2023, there were 4 cases in which the JACO was awaiting responses to referred draft reports (the equivalent figure at the end of March 2022 was 8). This is usually the final stage in the JACO investigation process.

### *Time taken to conduct investigations*

#### **It has taken more time, than in 2021/22, to complete Full Investigations.**

All of the 50 investigations concluded during 2022/23 took more than 6 months and 60% took over a year. This is longer than in 2021/22, in which 80% of the 66 investigations took more than 6 months and only 15% took over a year. It also reflects an increase in the time taken from 2020/21 in which 45% of the investigations took more than 6 months and only 7% of the 76 investigations took more than a year.

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<sup>10</sup> 6 of these had been passed for further investigation in 2021/22.



There were also 13 outstanding cases in which investigations had been ongoing for more than 12 months at the end of March 2023.

At the end of March 2023, there were 35 cases with the Investigating Team in which draft reports had not been formally referred to the Lord Chancellor and either the Lord Chief Justice or JAC Chairman. This was an 33% decrease from the figure of 52 at end of 2021/22 and consistent with the figure of 34 at the end of 2020/21.

There are several factors that have contributed to the significant increase in the time taken to address investigations, including:

- A peak in the number of cases and an associated backlog in the previous year 2021/22.
- The complexity of the cases.
- The unanticipated departure of two new members of staff who had joined the team in 2021/22. Subsequent challenges in the recruitment process left the office understaffed between May 2022 and March 2023.
- Further, the length of time taken encompassed<sup>11</sup>:
  - in 8 cases: periods (ranging from 19-272 working days) in which the cases were put on hold in 2020/21 and 2021/22 in order to allow the Investigating Body to give further consideration to issues regarding the Judicial Office Holders' conduct. In 3 of these cases there were also difficulties in obtaining the Investigating Body's papers regarding the further consideration.
  - in 1 case a period of two months in which the case was put on hold to allow for the complainant to provide further information.
  - in 11 cases delays, over 4 months, in the Lord Chancellor responding to draft reports referred to him (see detail below).

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<sup>11</sup> Deducting the periods in which cases were on hold and the difference between the Lord Chancellor's target response time of 8 weeks and the actual time taken would mean that 48% of cases rather than 60% would have been concluded in over year.

In order to address the concerns both about the time taken to conclude Full Investigations and the length and clarity of reports produced, steps were taken to adapt the process followed where appropriate. In 8 of the 50 cases concluded a new approach was trialled in which the Investigating Officer provided advice to the Ombudsman as opposed to producing a separate report. Following the success of this approach it is anticipated that further cases will receive a single JACO report in 2023/24.

Whilst the impact of understaffing in 2022/23 will continue to be felt in 2023/24, it is promising that the number of cases outstanding at the start of the year is significantly less than at the start of 2022/23. Further, with the office fully staffed and new approaches implemented, it is hoped that progress will be made in reducing the wait times for decisions following Full Investigations.

#### Time taken to receive responses to referred draft reports

**Overall, the time taken to receive responses to referred draft reports is consistent with that taken in 2021/22. However, there was an increased instance of delays, which were, in a small proportion of cases, significant.**

The JACO requests that a response is received within 8 weeks and:

- The proportion of cases in which a response was received in 8 weeks or less increased from 61% to 62%.
- However, the proportion of cases in which a response was received in 12 weeks or less decreased from 91% to 78%.
- There were also 6 cases in which a response took more than 6 months.

It is acknowledged that changes in government and, consequently, in the Lord Chancellor (there were 2 changes during 2022/23) invariably impacted the ability to respond within the usual timeframes.

There was one case, concluded in 2022/23, in which substantive comments were received at this stage. The case in question was finely balanced and these comments and a further review of the evidence resulted in the Ombudsman amending his proposed decision.

*Performance against targets*

**In 99% of instances when a monthly update was due, the JACO Office provided one.**

The JACO Office exceeded its target to keep all complainants fully informed on a monthly basis in 98% of cases, doing so in 99% of cases.

*Outcome of Full Investigations*

**The percentage of complaints upheld or partially upheld was 10% higher than in 2021/22.**

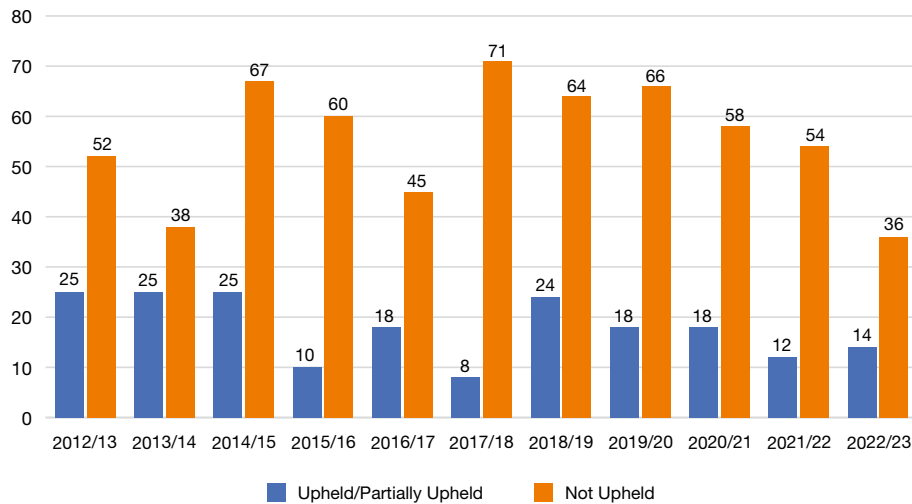
The JACO determined 36 cases which he did not uphold. This amounts to 72% of the cases determined following a Full Investigation.

- The JACO upheld or partially upheld 14 cases (2 fully and 12 in part). This amounts to 28% of the cases determined following a Full Investigation. This figure is 10% higher than the percentage upheld or partially upheld in 2021/22 in which the JACO upheld or partially upheld 18% (12 cases). Overall, the percentage upheld or partially upheld following a Full Investigation is slightly above the average across the previous 10 years<sup>12</sup>.

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<sup>12</sup> The average percentage of cases upheld between 2012/13 and 2021/22 was 24% and has ranged from a low of 10% to a high of 40% in this period.

Outcome of Complaints (total complaints upheld/partially upheld or not upheld) since April 2012



### Cases upheld or partially upheld by investigating body

Of the cases which the JACO upheld, or partially upheld:

- 13 were in respect of investigations conducted solely by the JCIO.
- 1 was in respect of an investigation conducted solely by a Tribunal.

### *Issues resulting in a finding of maladministration*

**Overall, the incidence of maladministration has remained very low.**

The following observations should be seen in the context of the overall very low occurrence of maladministration.

Issues which caused the JACO to find maladministration included:

- 7 cases, 6 dealt with by the JCIO and 1 dealt with by a Tribunal, in which concerns about case management, poor communication and delay amounted to maladministration.

- 4 cases, dealt with by the JCIO, in which there was a failure to follow an investigation process that was consistent with the appropriate legislation and guidance, before assessing that the complaints could be rejected as not containing an allegation of misconduct.
- 2 cases in which the JCIO failed to make appropriate enquiries in accordance with Rule 23 before dismissing the complaints.
- 2 cases, dealt with by the JCIO, in which relevant information was not considered when dismissing the complaint.
- 2 cases, dealt with by the JCIO, in which missing opportunities, offered by post-complaint correspondence or initial enquiries by my office, to rectify process issues, contributed to the finding of maladministration.
- 1 case, dealt with by the JCIO, in which aspects of the complaint were overlooked or misunderstood and were, therefore, not addressed.
- 1 case, dealt with by the JCIO, in which a Nominated Judge was asked to consider a complaint with reference to an outdated version of the Guide to Judicial Conduct.

### *Redress*

#### Set aside

#### **The JACO used his powers to set aside a decision in 2 cases.**

Section 111 of the Constitutional Reform Act 2005 enables the JACO to set aside a determination, or part of a determination, in respect of a Judicial Conduct Investigation matter if he identifies maladministration which renders the Investigating Body's decision unreliable.

In 5 cases, which the JACO upheld or partially upheld, the maladministration related solely to the management or administration of the Investigating Body and did not raise a question as to whether the determination reached was unreliable.

In 8 cases, the JACO found that the maladministration would, in itself and on the basis of evidence that the Investigating Body considered, have made the determination unreliable but other factors or subsequent developments caused him to conclude that the decision should not be set aside.

In 2 cases, which had been considered by the JCIO, the maladministration raised issues which resulted in the JACO setting aside the decision.

### Compensation

**The JACO did not make any recommendations for the payment of compensation.**

Section 111 of the Constitutional Reform Act 2005 also enables the JACO to recommend that compensation be paid in respect of a loss which relates to maladministration in the Judicial Conduct Investigations process. In 2022/23, the JACO did not make any recommendations that monetary compensation be awarded. There were 3 cases, which were either upheld or partially upheld, in which compensation was requested but the JACO did not agree that it was warranted. There were also a further 3 cases in which compensation was requested but, as the Ombudsman did not make a finding of maladministration, there was no scope to consider this.

### Apology

In 12 cases, which were upheld or partially upheld, the JACO found that an apology was the appropriate redress. The JACO did not recommend any redress in 5 of these cases as the Investigating Body had previously apologised and in 8 of these cases as it had already agreed to do so.

The JACO also found that an apology was warranted, in respect of matters which he did not uphold, in 4 cases. However, he did not recommend any redress as in 3 of these the Investigating Body had previously apologised and in the remaining 1 it had already agreed to do so.

The JACO welcomed this proactive approach.

### Preventing a recurrence of concerns identified during JACO reviews

#### **The JACO made systemic recommendations in 2 cases.**

Irrespective of whether the JACO makes a finding of maladministration, in order to prevent a recurrence of concerns identified during JACO reviews, the JACO considers making recommendations for systemic changes to assist Investigating Bodies in identifying and addressing concerns.

The JACO made systemic recommendations in 2 cases which fell within his Judicial Conduct Investigations remit. These included observations:

- In JCIO cases about:
  - The level of detail included in decision letters about the evidence it had observed when listening to a recording of a hearing, in particular whether allegations were substantiated or not.
  - The use of template letters and the need to consider whether statements within them are applicable to the individual circumstances of the complaint being considered.

There were also a further 3 JCIO cases and 1 Tribunal case in which the JACO would have made a systemic recommendation but the Investigating Body had already addressed matters. These included:

- 1 case in which the JCIO had already increased management oversight of cases, in particular, those passed for reinvestigation.
- 3 cases, 2 JCIO cases and 1 Tribunal case, in which the Investigating Bodies had already taken steps to ensure they met the requirement to provide updates every four weeks in accordance with the information either on its website or in its correspondence.
- 1 case, in which the Tribunal had already made improvements to the complaint handling process to facilitate better communication between the Tribunal Administration and the President regarding complaints, to ensure the President has all relevant correspondence before them.

The JACO welcomed this proactive approach.

### *Other themes and issues emerging from investigations*

There were 19 cases in which the JACO expressed concerns about correspondence which did not amount to maladministration or contribute to an overall finding of maladministration but where the provision of a response from the Investigating Body or more detailed/clearer information would have given complainants more confidence in the process followed and decisions taken. These included that correspondence:

- Contained errors, such as: referring to the wrong hearing date; not spelling the complainant's name correctly; and a complainant being addressed incorrectly.

And could helpfully have:

- More clearly summarised the complaint made.
- Been more explicit about deadlines for providing further information and the consequences of not doing so.
- Better explained the decision made. That is, it could have more clearly set out:
  - Why representations did not amount to exceptional circumstances warranting an extension of the time limit for bringing the complaint.
  - That reference to a complaint being out of time was supplementary to the dismissal of it under other provisions and, therefore, it was not necessary to seek representations to extend the time limit for bringing the complaint.
  - Why concerns:
    - Were either outside its remit to consider or fell to be dismissed as they were issues which could only be pursued through the courts (including how a Judicial Office Holder responded to a request for reasonable adjustments and allegations of discrimination, which were based on judicial decisions or judicial case management as opposed to the language used).
    - Otherwise fell to be dismissed.
    - Had previously been addressed.



- What evidence it had considered and what factors it had taken into account in reaching its decision.
  - Whether a complaint was considered to be untrue, mistaken or misconceived.
  - More information about the reasons behind a nominated judge's findings.
- Explained why it had not made further enquiries as previously indicated.
  - Responded to an enquiry about the process being followed.
  - Communicated that issues raised in post-complaint correspondence would not warrant asking a nominated judge to re-open the case or could not otherwise be considered.
  - Conveyed an apology offered by a Judicial Office Holder.

### Other Issues

There were 13 cases in which the JACO expressed other concerns which fell short of maladministration. These included concerns about:

- Delay or poor case management in 5 cases. In determining whether a finding of maladministration was warranted, the JACO took into account: factors which had contributed to the delay (e.g. overlooked correspondence, communications breakdowns, the context of the COVID-19 pandemic and the impact that this had on Investigating Bodies); the length of the delay; how regularly complainants were updated; whether the case was allowed to drift; and whether apologies were offered by the Investigating Body.
- 4 cases in which an oversight or error would have potentially warranted a finding of maladministration if the Investigating Body had not proactively taken steps to address matters following post-complaint correspondence or enquiries by the JACO Office.

- 1 case in which the Investigating Body did not engage with the complainant to discuss the closure of a complaint or its decision and directed them to the JACO office. It is noted that the JACO cannot review the merits of an Investigating Body's decision. As such, notwithstanding the option to pursue process concerns with the JACO office, it remains appropriate for Investigating Bodies to seek to explain their decisions to complainants. This is particularly the case in circumstances where the Investigating Body has explicitly invited complainants to make contact if they do not understand the decision on their complaint.
- 1 case in which the Investigating Body did not respond to requests that it telephone the complainant.
- 1 case in which the Investigating Body failed to maintain an appropriate audit trail and was unable to provide a record of evidence considered as part of its decision-making process. In this instance, the JACO took into account that this was an administrative oversight and not reflective of the Investigating Body's standard procedure.
- 1 case in which a letter had been attached to the Investigating Body's online portal but had not actually been sent to the complainant.
- 1 case in which the Investigating Body had not closed a duplicate complaint when it had indicated it would and it was therefore still showing as active on its online portal.

Other issues which the JACO considered, and did not reach a finding of maladministration involved:

- Whether the Investigating Body had provided an accurate and proportionate summary of the complaint.
- Whether a complaint had been adequately particularised.
- Complainants' views that the Investigating Body's decision was inconsistent with the Guide to Judicial Conduct, the Equal Treatment Bench Book and/or the Bangalore Principles. The JACO found that, whilst an Investigating Body might have regard to such material, it does not form part of the regulated disciplinary procedures and cannot, therefore, be considered determinative in the process of investigating Judicial Conduct complaints.

- Complainants' arguments that they should have been given the opportunity to comment on Judicial Office Holder's responses to the complaints. The JACO was satisfied that the Rules envisage a process in which a complainant's role is to raise concerns and an Investigating Body's is to consider and investigate them as required. As such, the initial assessment process allows an Investigating Body to seek further particularisation from the complainant and to make enquiries with the judge complained about, as considered necessary, but does not outline an adversarial process requiring both the complainant and the judge complained about to engage in rounds of submissions. In particular, the JACO found this to be appropriate in circumstances where the Rules include provisions for complaints to be reopened based on new information.
- Complainants' experience of using the Investigating Body's online complaints portal. This included 3 cases in which complainants raised concerns that they: either had not received or accessed an automated email advising them to log on to the Investigating Body's complaints portal to view a change in their complaint; did not understand how to use the portal; or could not see a decision letter on the portal when their case was closed. In each instance, the JACO was satisfied by evidence provided by the Investigating Body that information was available on the portal or had otherwise been provided.
- Complainants' view that the Investigating Body was biased or that there was a conflict of interest which impacted its investigation. This included concerns that Investigating Bodies' accounts of evidence gauged from listening to recordings of hearings were false. The JACO found that, other than a disagreement with the consequent decisions taken by the Investigating Bodies, there was no evidence, related to the process followed, to support the allegations.
- Complainants' allegations that the Investigating Body breached the Equality Act in its dealings with them. The JACO's remit is set out in the Constitutional Reform Act and he has no authority to make a finding about such breaches. The JACO considered whether the Investigating Bodies had followed a reasonable process, including whether it had taken appropriate steps to enable complainants to access their services.

- Concerns about delay on the part of the Investigating Body where the JACO found that the complaints had been addressed within an appropriate timeframe.
- The interpretation of the Rules concerning:
  - In 15 cases, the need to make further enquiries. The JACO was satisfied that Investigating Bodies had sufficient evidence to make decisions on the balance of probabilities and that their decisions not to make further enquiries were in accordance with the reference to the need for proportionality in the Rules.
  - In 6 cases, the possibility of reopening previously dismissed cases on the basis of new information. The JACO found that, even in instances where the Investigating Body had not responded to post-complaint correspondence, it had considered the information provided in determining that it did not meet the relevant criteria to refer the matter to a nominated judge to consider reopening it.
  - In 4 cases, the deadline for bringing a complaint to an Investigating Body. This included:
    - 1 case in which the complainant argued that they had been delayed in bringing the complaint to the Investigating Body as they pursued their complaint with the Coroner to its conclusion first. The JACO was satisfied that the Investigating Body's guidance is clear that a complaint to it must be made within three months of the events complained of.
    - 3 cases in which the complainant sought to argue that concerns, which had occurred within three months of them bringing the complaint, should be considered as the latest event or matter complained of, such as to bring concerns about earlier incidents in time. The JACO was satisfied that the Investigating Body had considered relevant evidence in determining that a pattern of behaviour had not been established and that its approach was consistent with the Rules.
  - in 1 case, whether the complaint could be rejected as outside remit.

- Investigating Bodies' handling of allegations of:
  - Delay on the part of a Judicial Office Holder:
    - There were 3 cases in which the JACO found that complainants, allegations of judicial delay had been appropriately considered.
  - Discrimination by Judicial Office Holders:
    - There were 5 cases in which complainants objected to the Investigating Body dismissing allegations that Judicial Office Holders had discriminated against them on the grounds of either sex, race or disability. In each instance, the JACO was satisfied that the Investigating Body had taken into account that the principle of judicial independence would preclude it from examining a Judicial Officer Holder's decisions or case management in order to determine whether they were motivated by bias. The JACO found that the Investigating Body's process was consistent with the Rules and that it appropriately advised complainants that such matters could only be pursued through the courts.
  - Criminal conduct:
    - There were 5 cases in which complainants raised concerns that Investigating Bodies had failed to address allegations against Judicial Office Holders of lying, corruption, fraud, perjury or other criminal offences. The JACO found that it was appropriate for Investigating Bodies to explain that such matters could not be investigated under the judicial disciplinary process and that it could only consider such matters based on a finding by the police.

- Transcription tampering:
  - There were 3 cases in which complainants argued that a Judicial Office Holder had changed a transcript. The JACO was satisfied that Investigating Bodies had followed an appropriate process in concluding that it was either a matter of judicial decision and case management which did not raise a question of misconduct, or that it could not be considered without a prior finding by the court (i.e. at the conclusion of HM Courts and Tribunal Service complaints process).
- A failure of a Judicial Office Holder to provide reasonable adjustments
  - There were 3 cases in which complainants objected that concerns about judicial office holders' failure to provide reasonable adjustments had been dismissed as matters of judicial decision making and judicial case management which did not raise a question of misconduct but the JACO found that they had been appropriately handled.

## **Post investigation correspondence and challenges to JACO decisions**

The JACO considers a limited amount of correspondence from people who are dissatisfied with the outcomes of their complaints (following Preliminary or Full Investigations).

During 2022/23 the JACO responded to:

- Approximately 48 pieces of correspondence sent in response to cases concluded following a Preliminary Investigation. This included correspondence related to 2 complaints which were dealt with in 2021/22. The remaining correspondence related to 38 of the 204 complaints (17%) concluded following a Preliminary Investigation in 2022/23. This is a 10% decrease from 2021/22 in which correspondence related to 51 of the 180 cases concluded.

- Approximately 9 pieces of correspondence sent in response to cases concluded following a Full Investigation. This included correspondence related to 2 complaints which were dealt with in 2021/22. The remaining correspondence related to 6 of the 50 complaints (12%) concluded following a Full Investigation in 2022/23. This is a 3% decrease from 2021/22 in which correspondence related to 10 of the 66 cases concluded.

There were no instances in 2022/23 in which the JACO changed his mind, as to whether further investigation was required or set aside his determination following a Full Investigation, having considered such correspondence. There was 1 instance in which post-complaint correspondence resulted in the JACO drafting an addendum to his report. This was referred to the Lord Chancellor and Lord Chief Justice to see if they wished to comment but had not been finalised and issued to the complainant by the end of March 2023.

There were 3 applications for Judicial Review made in 2022/23 which were outstanding at the end of March 2023.

There was 1 case (concluded previously) in which: a complainant sought to judicially review the JACO's decision; permission to do so was refused; and costs in respect of defending the unsuccessful application were awarded in the JACO's favour.

In 2021/22 the JACO Office instructed the Government Legal Department in respect of two cases in relation to allegations that the JACO Office had breached the Equality Act 2010 in its dealings with the complainants. These cases were ongoing at the end of 2022/23.

## **Judicial Appointments Process**

The Constitutional Reform Act 2005 enables the JACO to consider complaints about the Judicial Appointments process from candidates for judicial office who claim to have been adversely affected by maladministration in the way in which their application for appointment, and/or subsequent complaint was handled.

There were 3 cases that were outstanding at the end of the previous reporting year 2021/22. 3 new cases were also referred for further consideration in 2022/23. All of these concerned the actions of the JAC or a committee of the JAC. The JACO did not consider any

complaints that related to the role of the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals in the Judicial Appointments process.

The JACO determined 3 complaints about the Judicial Appointments process in 2022/23. This was a decrease compared to 2021/22 in which 5 cases were considered.

There was 1 further case in which the JACO found that it was not necessary to investigate the complaint. There was no prospect of him determining that there had been maladministration that had disadvantaged the complainant as a candidate for selection or as a person selected as the outcome of the Selection Exercise had not yet been given.

The handling of JAC cases within the JACO office was impacted by the staff-shortages and backlogs referenced elsewhere in this report (1 case took 13 months, 1 took 12 months and the remaining case took 10 months). In each instance, the JACO office offered apologies to the complainants involved during the process. In all 3 cases responses to draft reports in respect of Judicial Appointments matters referred to the JAC Chairman were received in under 6 weeks. In 2 cases responses were also received from the Lord Chancellor in under 6 weeks and, in the in the remaining case, the response was received just outside the 8-week target, with an apology for the slight delay.

No cases were upheld or partially upheld. The JACO agreed with a finding by the JAC that there had been errors in the provision of feedback to a candidate. The JACO did not make a finding of maladministration as: the relevant legislation does not require the JAC to provide feedback; it acted swiftly to rectify the mistakes identified; it apologised for the issues; it took action to prevent the recurrence of the problem; and he found that the complainant had not been disadvantaged as a candidate for selection.

Given that the number of applicants that the JAC considered for appointment was 8928 in 2021/22 (with 1244 being recommended for appointment), 3574 in 2020/21 (with 869 being recommended for appointment) and 8148 in 2019/20 (with 979 being recommended for appointment), it is notable that the number of complaints to this office was so small.



Issues that the JACO considered which did not result in a finding of maladministration were (further detail can be found in Appendix B: JAC Themes):

- Whether the JAC responded appropriately to arguments made by candidates that the decision not to progress their application was incorrect.
- Whether the JAC provided candidates with proper reasons for its decision not to select them.
- Whether the JAC should provide feedback to all candidates who attended a Selection Day rather than just those who had missed appointment by a narrow margin.
- The quality/coherence of feedback provided to candidates and the consistency of it across different selection exercises.
- The statutory consultation process undertaken by the JAC, including the timing of it.
- Transparency in the process, including whether the statutory consultation comments and selection panel reports should be disclosed to candidates.
- Whether the JAC had regard to the provisions of section 64 of the CRA 2005, i.e. the requirement to encourage diversity in the range of persons available for selection for appointment.
- Whether the JAC had dealt with complaints impartially.

The JACO did not make any recommendations for apologies or systemic changes in respect of matters within his Judicial Appointments remit which he did not uphold. In one case, he found that an apology was the appropriate redress but did not make a recommendation to this effect as it had already been given.

# Complainants and stakeholders

## **Relationships with stakeholders**

The JACO and the JACO Office have continued good professional working relationships with stakeholders, including the bodies that come within the JACO remit. This has been done whilst maintaining all parties' respective independence, including that the JACO has the right to conduct reviews as he sees fit and to reach his own conclusions, based purely on his observations as to whether there was maladministration in respect of matters that fell within his remit. He also seeks to ensure that bodies complained against have a fair and appropriate opportunity to provide input to his investigations and will not issue critical reports without giving them the chance to comment.

The Memorandum of Understanding between the JACO Office and the MoJ requires the JACO to submit a report to the Lord Chancellor and Lord Chief Justice covering his work for the first six months of each reporting year. The JACO provided the report for the period April to September 2022, in October 2022. It was also sent to the JAC Chairman.

### *Explaining the JACO remit*

The JACO Office is aware from communications to it that many complainants remain unclear about the JACO's remit. It is not unusual for people to contact the JACO Office, especially in respect of Judicial Conduct matters, in the hope that the JACO remit is wider than it is or that the complaints process provides scope to review judicial decisions or case management.

The JACO office remains conscious of the need to seek to communicate better what the JACO can and cannot do, in order to better manage complainants' expectations. Therefore, the JACO Office continues to work on raising awareness and understanding of the JACO's remit. In 2022/23, in order to achieve this, the JACO Office:

- Publicised the new versions of its Judicial Conduct investigations process complaint form and guidance leaflet on its website.

- Updated the automatic acknowledgment issued in response to correspondence to the JACO Office's email address.
- Added an automated message to its telephone line to provide information about what the JACO Office can and cannot assist with.

### *Reasonable Adjustments*

In accordance with the JACO's Reasonable Adjustment policy, which was published in March 2022, the JACO office is committed to ensuring that people with disabilities and long-term conditions are not disadvantaged in accessing its services. It seeks to alert people to this policy and offer assistance when people first make contact. This resulted in the JACO Office making a number of adjustments for complainants in 2022/23, including instances in which:

- it allowed complainants to provide details of their complaint orally (calls were recorded and unedited automated transcriptions provided).
- it adjusted the formatting of its written responses (font size, colour, line spacing etc.) in order to provide accessibility.

There were also instances where the JACO Office declined requests. In doing so, as per its policy, it took into account: the reasons for the request, alongside the office's resources (including budgetary constraints); the impact on the progression of a case; and the compatibility of the request with the JACO's remit. For example:

- In 1 case it acknowledged mental health difficulties and the request for open-ended reasonable adjustments on this basis but explained that it remained necessary for the Ombudsman to carry out his function and take a view on whether a Full Investigation was necessary.
- In 2 cases requests for in person meetings were declined on the basis that it would not be a proportionate use of the office's limited resources and was not necessary to the progression of the case, as the complainants were able to outline their concerns in writing.

### *Stakeholder Engagement*

JACO officials met and discussed issues of mutual interest with the Deputy Ombudsman of Angola.

### *Compliments and complaints received*

The JACO Office is aware that there have been several instances in which the level of service provided (as opposed to concerns about the JACO's decisions) fell below the level expected in 2022/23.

The main issues which caused this to happen included:

- 10 instances in which the JACO reiterated apologies offered by JACO Office staff for the delay in progressing Full Investigations, which was due to the pressure of competing priorities, heavy workloads and understaffing.
- 3 instances in which correspondence was simply “missed”, leading to a delay in responding.

The JACO Office has also addressed 3 complaints about the service provided which were not upheld:

- 2 instances in which complainants were dissatisfied at having been told that their concerns were outside the JACO's remit or could not be progressed without further information and that their complaints could not be accepted for initial consideration.
- 1 instance in which the complaint was not upheld and it was found that the level of communication with the complainant was disproportionate to the issues involved and that the office could no longer respond to phone calls and correspondence.

The JACO and the JACO Office also received compliments from complainants and others during 2022/23. These included observations from:

- 1 complainant, who had been told that the matters they had raised fell outside the JACO's remit, who appreciated the further guidance they received, which they said had helped them navigate to the correct office.
- 1 complainant who thanked an Investigating Officer for their updates and professional response to their enquiries.
- 1 investigating body who thanked the Investigating Officer and JACO for “the care and thoroughness” of their work.

## Corporate Governance

### **Status of JACO Office**

The JACO Office is an independent Arm's Length Body that is sponsored by the MoJ. In accordance with the requirements of Schedule 13 of the Constitutional Reform Act 2005, the JACO Office is sponsored and funded from moneys voted to the MoJ. The MoJ also provides a range of support services, including accommodation, IT, telephony and some legal support services.

During the year, JACO Office Officials met on a regular basis with the MoJ's Sponsorship and Finance Teams to discuss the Office's performance and financial position. Officials also participated in other Arm's Length Body groups discussing matters such as Risk Management, Business Continuity, Training, Security and Health and Safety. These are useful and constructive discussions.

### **Financial resources**

The JACO Office continued its commitment to managing its resources effectively. It has thorough and appropriate financial and governance arrangements in place, including reporting to the MoJ's Finance and Sponsorship Teams on how actual expenditure compares with the budget forecast. These controls assisted key business targets to be met within the constraints of the budget agreed with the MoJ.

The JACO Office budget for 2022/23 was initially £468k, however was subsequently increased to £512K to facilitate the recruitment of an additional Band C Investigating Officer (see below). Due to delays in the recruitment process, vacancies were not filled until mid-March 2023. The outturn expenditure was approximately £442k, an underspend of £70k. The JACO Office's outturn expenditure has been less than budgeted for 17 consecutive years. More than 95% of outturn expenditure was in respect of staff costs, including the JACO's contracted remuneration of approximately £46k.

The JACO Office is based in MoJ accommodation. Its budget does not reflect the costs of occupying that accommodation and some associated services.

The outturn expenditure figure included approximately £18K in respect of legal fees, compared to the £13K budgeted. In addition, the JACO Office was aware that there were some invoices for legal assistance provided by the Government Legal Department during 2022/23, which had not been received by the end of March 2023.

The JACO Office did not make any ex-gratia payments during 2022/23.

The JACO Office budget for 2023/24 is £531k; there is an increase of £19K from 2022/23. As in previous years, the unpredictable nature of the need for legal support services to respond to legal challenges made to the JACO's decisions is the single factor most likely to mean that the JACO Office's expenditure in 2023/24 might exceed that amount.

## **Staff resources**

The JACO holds a public appointment. There were no instances during 2022/23 in which the Lord Chancellor appointed a Temporary Ombudsman to consider a specific case.

The JACO Office has sought assistance from the Government Legal Department where necessary but has not engaged any other consultants or agency workers during 2022/23.

JACO Office staff are Civil Servants, employed and appraised under MoJ terms and conditions, including the MoJ's "Reward and Recognition" scheme. All awards under that scheme are "benchmarked" with the Sponsorship Team to ensure consistency.

At the start of the 2022/23 period the JACO Office comprised of two Band B Joint Heads of Office (1.8 Full Time Equivalent (FTE)) (1 FTE being the Business Manager and the other 0.8 FTE a Senior Investigating Officer); 5 Band C Investigating Officers and a Band E Administrative Officer. Following a successful business case, the office was subsequently provided with additional funding to facilitate recruitment of an additional Investigating Officer. There was some movement within the team with two Investigating Officers leaving in May and November 2022. Three new Investigating Officers subsequently joined the team following external selection exercises and the team was fully staffed from mid-March 2023.

The JACO Office lost, on average, less than 3 days per member of staff to sickness during 2022/23.

The JACO Office made no compensation or exit payments during 2022/23.

## **Changes to working arrangements following the COVID-19 Pandemic**

The JACO office is based in the MoJ headquarters at 102 Petty France. Prior to the COVID-19 Pandemic it encouraged flexible and remote working for all staff where this could be done without compromising the security of information held and the need to provide a “customer facing” organisation. During 2022/23, JACO staff adopted more structured hybrid working arrangements combining remote and office-based working.

The move to more remote working necessitated by the COVID-19 pandemic impacted on the provision of a telephone service. Following consultation with colleagues in MoJ’s Digital and Technology Directorate a new telephony solution was implemented facilitating the continued hybrid working arrangement.

During 2022/23, the JACO Office did not lose any days as a result of staff having the COVID-19 virus, nor were any days lost due to increased caring responsibilities.

## **MoJ Corporate plans and longer-term expenditure trends**

The JACO Office provides input into the development of MoJ corporate plans and policies to the extent that they relate to issues within the JACO remit and to a degree that is consistent with the JACO’s status as an independent public appointee and of the JACO Office as an independent Arm’s Length Body.

The JACO Office has provided input to MoJ discussions about long term expenditure trends and the Places for Growth strategy and will continue to do so.

## **Training and development**

Staff in the JACO Office are trained to carry out their responsibilities and have a high level of complaints investigation experience.

All JACO Office staff hold or are working towards obtaining a BTEC Advanced Professional Award in Complaints Handling and Investigations. In 2022/23, JACO staff undertook training in the handling of Freedom of Information requests, Finance and attended a Combatting Public Sector Fraud event.

## **Information Assurance**

The JACO Office holds a range of personal information, some of which would be classed as sensitive personal information. This information is obtained and processed solely for the purpose of enabling the JACO to carry out his statutory functions under the Constitutional Reform Act 2005 and associated responsibilities, such as responding to requests for information under the Access Legislation.

The JACO Office is grateful for the Data Protection Officer support provided by Officials in the MoJ's Data Privacy Team.

The JACO Office is its own data controller and is separately registered as such with the Information Commissioner's Office.

In 2022/23 there was one instance in which a complainant, having received information in response to a Subject Access Request, was able to remove redactions that had been applied to staff names and a common complainant surname. The JACO Office took appropriate steps to report this and has since implemented redaction software to prevent the recurrence of this issue.

As a data controller the JACO Office is responsible for responding to requests for information made to it under the Data Protection Act 2018, the Freedom of Information Act 2001 and associated legislation and guidance. This included correspondence which was not explicitly a request for information but which the JACO Office interpreted as one. The JACO Office considered 27 such requests during 2022/23 – including requests that decisions made be reconsidered. It is committed to disclosing whatever can be done appropriately under the relevant legislation and guidance.



The JACO Office responded to 24 of the requests within the specified statutory time limits. There were a number of factors which impacted on the time taken to reply to such requests:

- Responding to such requests can be a difficult, complex and time-consuming process, involving the scrutiny of a large volume of information and legislation and guidance that is not part of the JACO statutory remit.
- The fact that the JACO Office has been largely unstaffed for significant periods during the reporting period of this Report has impacted this task.

There were two instances in which the ICO found that the JACO Office had not responded to requests for information in accordance with the relevant legislation. However, neither instance resulted in further action being required.

# Annexes

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**A: 2022/23 Statistics****Breakdown of complaints received**

	Total number of complaints & enquiries received	Appointment -related cases received	Conduct -related cases received	Other enquiries received
APRIL	95	0	43	52
MAY	135	1	47	88
JUNE	121	1	49	72
JULY	131	0	52	79
AUGUST	141	0	56	85
SEPTEMBER	149	2	53	96
OCTOBER	162	2	77	85
NOVEMBER	178	1	53	125
DECEMBER	140	0	53	87
JANUARY	164	2	61	104
FEBRUARY	138	0	50	88
MARCH	182	2	83	99

	Total number of complaints & enquiries received	Appointment -related cases received	Conduct -related cases received	Other enquiries received
	Number of complaints & enquiries	Appointment related cases	Conduct related cases	Other enquiries received
<b>TOTALS</b>	1736	6	677	1060

**Breakdown of conduct complaints received by type of Investigating Body**

Total Conduct related cases	Conduct cases relating to the JCIO	Conduct cases relating to Tribunals	Conduct cases relating to Advisory Committees
257	160	87	10

**Breakdown of cases finalised**

	Cases dealt with at Stage 2: Preliminary Investigation	Cases passed to Stage 3: Full Investigation but then dealt with as Stage 2: Preliminary Investigation	Cases dealt with at Stage 3: Full Investigation	Total
Appointment Process (JAC)	1	-	3	4
Conduct Investigation (JCIO)	127	6	37	170
Conduct Investigation (Tribunal)	73	-	9	82
Conduct Investigation (Tribunal and JCIO)		-		
Conduct Investigation (Advisory Committee)	5	1		6
Conduct Investigation (Advisory Committee and JCIO)		-	1	1
<b>Total</b>	<b>206</b>	<b>7</b>	<b>50</b>	<b>263</b>

**Breakdown of cases investigated, determined and finalised following a Full Investigation**

	Not Upheld	Upheld and Partially Upheld	Total
Appointment	3	-	3
Conduct Investigation (JCIO)	24	13	37
Conduct Investigation (Tribunal)	8	1	9
Conduct Investigation (Tribunal and JCIO)	-	-	0
Conduct Investigation (Advisory Committee)	-	-	0
Conduct Investigation (Advisory Committee and JCIO)	1	-	1
<b>Total</b>	<b>36</b>	<b>14</b>	<b>50</b>

## B: Case Studies

### Case Study 1 (JCIO)

The complainant asked the JACO to review the conduct of an investigation by the JCIO of a complaint against a judicial office holder.

The JACO agreed to investigate the complaint that there was delay in the JCIO's investigation process. The JACO was sympathetic to the difficulties faced by the JCIO in managing complaints generally during the COVID-19 pandemic and took into account that the JCIO informed the complainant at the outset that further investigations may take longer than 20 weeks to conclude due to restrictions. However, the JACO partially upheld the complaint as he found the delay amounted to maladministration, insofar as it related to an 8-month period between April 2021 and December 2021. He made the decision based on his findings that:

- The JCIO failed to proactively manage the case.
  - The JACO accepted that part of the delay appeared to have been due to difficulties in the JCIO obtaining the tape recording from the court. The JCIO requested the recording on two occasions and the court confirmed it would be posted to the caseworker. However, due to postal issues, some 11 weeks later, the caseworker reported to the court that the recording had not been delivered and they had been notified it had been returned to the court. The JACO viewed that the JCIO should have followed the matter up with the court much earlier. It then took a further 10 weeks before the recording was received by the JCIO. The JACO was not persuaded from the evidence before him that the JCIO proactively managed the case, which was dependent on obtaining and listening to the recording. The JACO took into account that during this period the caseworker was without IT for a week, had a period of leave and was dealing with a very large caseload. However, he

remained of the view that a system should have been in place for monitoring and ensuring the progression of cases during this period.

- The final assessment stage took approximately 12 weeks, from the date the caseworker received the recording to providing the complainant with the outcome. The JACO, again, appreciated the caseworker's workload and that they had a backlog of reports to draft. However, given the prior delays with the case, he found that it was incumbent on the JCIO to seek to prioritise this case and avoid further delay.
- The JCIO failed to keep the complainant adequately updated during this period.
  - The JCIO's website states it will update complainants every 4 weeks. In this case, the JCIO failed to update the complainant for an 8-month period. This resulted in the complainant contacting the JACO Office on numerous occasions between May 2021 and November 2021.
  - The JACO was satisfied that the JCIO would be entitled to determine that it could not provide the anticipated monthly updates but found that, if that were the case, it should have notified the complainant of this course of action. As it did not do this, it was reasonable that the complainant was still expecting the JCIO to update them every four weeks.
  - The JACO expressed the view that any delays in the process would have been mitigated if the JCIO had managed the complainant's expectations and provided regular updates and the JCIO's failure to do so had, therefore, contributed to his finding of maladministration.
  - The JACO would have recommended that the JCIO apologise to the complainant, but it agreed to do so. The JCIO also agreed to take steps to ensure that it met its requirements to provide updates every four weeks in accordance with the information on its website and its correspondence.



As set out above, the JACO is sympathetic to the challenges the pandemic presented and the effect on the JCIO being able to manage cases in a timely way. For example, the JACO did not make findings of maladministration in other cases where there was delay.

- In another complaint, despite there being a delay in listening to a recording of a hearing, the JACO took into account that the JCIO sought to keep the complainant informed. The JCIO explained that there was a delay as a physical copy of the recording had to be collected in person and the office attended to access equipment to review it, during the COVID-19 lockdown. It set out that time was taken to carefully assess the recording and complete a draft record of investigation, for approval by a manager. The JACO was, therefore, satisfied that it was reasonable, in the circumstances, that the JCIO took time to complete this process properly and it had managed the complainant's expectations by regularly updating them.
- In a further case that took the JCIO 18 months to investigate, the JACO did not identify maladministration. He took into account that:
  - Although there was a 5-month period where the case appeared to have made slow progress, the JCIO explained that this was due to the complexity of the matter, which required it seeking legal advice prior to making a detailed submission to the Lord Chancellor and Lord Chief Justice. It outlined that this submission had been through numerous drafts in liaison with senior management.
  - There were no significant periods of time where no action was taken to progress the complaint or evidence that the case was left to drift.
  - The JCIO provided the complainant with regular updates and kept them informed of progress and next steps.

### **Case Study 2 (Tribunal)**

The complainant asked the JACO to review the investigation by the Chamber President of their complaint against a Tribunal Judge (TJ).

The complaint to the JACO was that:

- The President dismissed several points of their complaint without investigation on the basis that they were about judicial decisions or case management, which did not raise a question of misconduct or, even if they were true, they would not require any disciplinary action to be taken.
- The President failed to investigate an allegation that the TJ was biased against the complainant.
- The investigation into an allegation of shouting was seriously flawed as:
  - Witnesses were asked to comment on this in relation to the wrong day of a two-day hearing.
  - The President did not explain why evidence from the Tribunal Panel and other witnesses was favoured over theirs.

The JACO did not uphold the complaint. He was satisfied that the President followed a reasonable and proportionate process when they initially considered the complaint and concluded the points made in respect of the TJ's conduct fell to be dismissed:

- In respect of their role in investigating complaints of judicial misconduct, the President was required to investigate complaints under the Judicial Conduct (Tribunals) Rules 2014. The question for the President was not whether the TJ could have conducted the hearing better, but rather whether the TJ's actions amounted to misconduct which would require a disciplinary sanction. Part of the complaint about the TJ was about the way that they had managed the witnesses at the remote hearing and who they allowed to speak and when. The President considered that the TJ's actions in this regard ultimately related to their management of proceedings and subsequently dismissed the complaint based on this view. As part of the President's assessment they also considered whether the TJ's actions in managing the hearing could relate to misconduct but found that the complaint could be dismissed as it was without substance and also as, even if found to be true, it would not require any disciplinary action to be taken. The JACO was satisfied that the President took relevant information into account as they: acknowledged the principal of judicial independence; considered whether the tribunal should have exercised more control over those attending; noted that the tribunal had to operate within the constraints of the pandemic and video hearings were a necessity; and acknowledged that the TJ had warned witnesses when they were interrupting.
- The JACO noted the complainant's point that the TJ was biased and that this had not been investigated by the President as an issue of misconduct. However, he found that the President was unable to consider the way that a TJ managed a case or review the decisions made to decide if these raised a question of misconduct. To determine whether a Judicial Office Holder has been biased in their decision making or handling of a case would require a President to essentially examine the evidence and come to a conclusion as to whether it was correct or fair or a result of any bias towards a party. The JACO was satisfied that this is not an Investigating Body's role under the judicial disciplinary proceedings and such a challenge can only be made via an appropriate appeal. Subsequently, if on appeal,

a higher court or tribunal was critical of a judge's actions to the extent it raised a question of misconduct, it could be considered under the disciplinary process at that stage. The Ombudsman was content that the President's advice to the complainant in this regard was consistent with legislation and guidance.

- In respect of the President's handling of the shouting allegation, the JACO found that there were shortcomings in the original investigation with the wrong date of the hearing being cited in the letter requesting comments from witnesses. He therefore carefully considered whether this oversight would warrant a finding of maladministration. He determined that it did not as: in the absence of a recording the President had appropriately sought witnesses' views; it was a single administrative error; despite the error, the initial consideration was not unreasonable as the President had enough responses which addressed the relevant hearing; and the President responded swiftly to address the error when the JACO's office brought it to their attention by conducting an appropriate review. Overall, the JACO was satisfied that the error was not sufficiently serious to warrant a finding of maladministration and that an appropriate process has been followed in determining that the allegation should be dismissed on the basis it is without substance and either untrue, misconceived or mistaken.
- Finally, the complainant said that the President's response to their complaint did not explain why other evidence was favoured over their own. They suggested that they were essentially outnumbered and their account of what happened simply not believed. They further said that the President appeared to have found the Respondent witnesses, Counsel and the Tribunal Members, evidence more credible due to their professional status. The JACO did not uphold this aspect of the complaint:

- The Rules are not prescriptive in respect of how evidence should be weighed nor the level of detail to be provided in the decision in respect of the weight given to witnesses' evidence. The JACO noted that the President said they gave specific weight to Counsel for the Respondent's comments on the complaint on the basis that they had made detailed notes of the hearing. On review the President also said that they had given weight to the experience of the Tribunal Members and their assurances that, if there had been an issue, they would have raised it. He was satisfied that these were reasonable observations for the President to have made in explaining the reasons for the dismissal. However, beyond this, the ultimate weight the President gave to evidence (i.e. the merits of the decision) is not something the JACO can review.

Overall, the JACO was satisfied the Chamber President investigated the complaint in accordance with the prescribed disciplinary procedures and there was not any maladministration in his investigation.

### **Case Study 3 (Advisory Committee)**

A Magistrate asked the JACO to review the investigation by an Advisory Committee (AC) of a complaint against them. This followed a finding that they should receive a disciplinary sanction for: failing to report to their Bench Chair a relevant matter in accordance with the declaration and undertaking signed on their appointment; and seeking to use their judicial status to further personal aims.

The complaint to the JACO included the Magistrate's concerns that:

- The process had been biased against them as they had provided enough information to demonstrate that the allegations were unfounded.
- The Conduct Panel Hearing was unfair because: they were not informed of the allegations to be addressed; and the Conduct Panel did not follow the process set out in the Rules in terms of its questioning of them but rather asked for their version of events, for which they were unprepared.

The JACO did not uphold the complaint. He had a minor concern that the information presented to the Magistrate at the outset about the nature of the allegations could have been clearer but, overall, he was satisfied that the AC followed an appropriate process that was consistent with legislation and guidance and there was no evidence of maladministration.

- The JACO appreciated that the Magistrate believed the allegations against them were unfounded and there were mitigating circumstances. He saw that the AC was sympathetic to the Magistrate's situation and this, alongside the Magistrate's views on the motivations for their actions and the circumstances in which the issues arose, were taken into account at each stage in the process. The JACO's remit prevents him from reviewing the merits of a decision, but he was satisfied there was no evidence of bias in the process followed by the AC.

- The JACO had a minor concern that the complaint, as presented in correspondence to the Magistrate prior to the Conduct Panel Hearing, was a mixture of the allegations and background information and a clearer distinction could have been made between the two. The JACO was satisfied that the issues were set out to them and discussed in detail at the Conduct Panel Hearing. The JACO was also satisfied that the Magistrate had sufficient opportunity to make their representations at the hearing and in writing.
- Having considered the transcript of the Conduct Panel Hearing and the report that followed, the JACO was satisfied that the Conduct Panel had followed the process set out in the Rules. It had:
  - Explained the purpose of the hearing.
  - Asked the Magistrate to confirm whether they agreed wholly or in part with the facts set out in the papers provided to them and in its report had set out the facts that were agreed and the facts in dispute.
  - Given the Magistrate the opportunity to set out what had happened from the beginning.

## **JAC themes**

The JACO remit focuses on whether a person has “been adversely affected, as an applicant for selection or as a person selected, by the maladministration complained of”. During the reporting period, the JACO considered complaints on the following themes.

### **Feedback**

The provision of feedback is a common theme in complaints to the JACO as unsuccessful candidates are keen to know why they were not recommended for appointment. The level of feedback the JAC provides is published for each selection exercise and can take the form of a sift report, a qualifying test report, a selection day report or individual written feedback.

The JACO considered complaints about:

- Whether it is reasonable for the JAC not to provide feedback to all candidates who attended a Selection Day in all selection exercises.
- The consistency of the feedback provided across selection exercises for similar posts.

The JACO was content that the JAC had followed the published process on the basis that:

- The provision of feedback is not a statutory requirement. The aim of written feedback is to steer people towards areas for improvement and not to provide a detailed justification of why someone was not appointed.
- The JAC must use its resources appropriately. Providing written feedback for all candidates attending a Selection Day can be resource intensive. Therefore, it is reasonable for it not to provide individual feedback to all unsuccessful candidates in selection exercises that attract large numbers of applicants.
- Where written feedback was provided, it was consistent with that provided by the panel.



It is appropriate that each application for appointment is considered separately and addressed against the eligibility criteria of the advertised post and in relation to the specific cohort of applicants for that Selection Exercise.

### **Statutory Consultation**

The JACO considered complaints about the transparency and fairness of the Statutory Consultation process.

The JACO considered complaints about whether:

- Consultations should be considered after recommendation for appointment, but before selection.
- Candidates could be sabotaged by negative comments made; and the process lacked transparency.

The Statutory Consultation process is required by the Judicial Appointments Regulations 2013. The JAC is required to consult a person (other than the Appropriate Authority<sup>13</sup>) who has held the office being selected for, or who has other relevant experience<sup>14</sup>. The Selection and Character Committee consider all the relevant information, including Statutory Consultation comments, and makes recommendations for appointment. The JACO was satisfied that there was no evidence of maladministration and the JAC followed a process consistent with legislation and guidance because:

- There are no specific regulations determining the timing of Statutory Consultation.
- There was no evidence any other information was sought outside the formal Statutory Consultation process.
- The Selection and Character Committee had all the relevant information, including Statutory Consultation comments, on which to base its decision.

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<sup>13</sup>The Lord Chancellor, the Lord Chief Justice and the Senior President of the Tribunals.

<sup>14</sup>This process can be waived with the agreement of the Appropriate Authority. The JACO did not consider any complaints made in these circumstances.

- Whether, or not, the JAC discloses information following a Subject Access Request falls outside his remit.

### **The Selection Process**

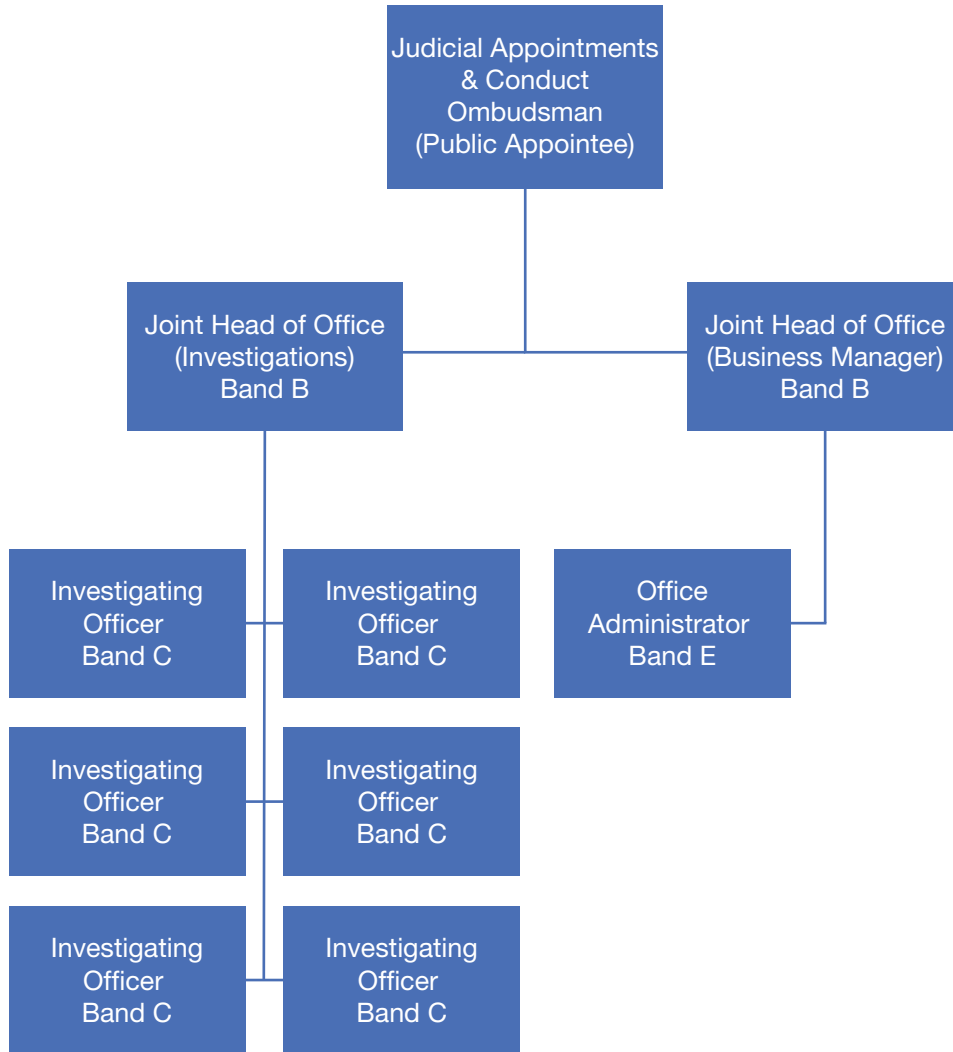
The JACO can consider whether the JAC ran a Selection Exercise in accordance with the published criteria and the panel and the Selection and Character Committee had all the relevant material to assess a candidate's suitability for appointment. He cannot review the merits of the decisions made. He considered complaints about:

- The decision not to recommend a person for appointment, including that their application had not been properly assessed, which led to incorrect marks being awarded.

The JACO was satisfied that:

- The JAC complaints process cannot determine whether the decision not to recommend someone for appointment was correct. Rather, the process appropriately assessed whether there was any maladministration on the part of the JAC that adversely affected an application for appointment.

**C: JACO Office structure (March 2023)**



## D: Summary of Performance against Business Plan targets

Our strategic aim in undertaking independent investigations into complaints is to ensure that the processes for applying for Judicial Office and for dealing with complaints about Judicial Conduct are applied correctly and consistently. We will continue to deliver an effective, responsive and professional service in a timely, consistent and transparent manner.

Our first business objective is to provide a timely, consistent and transparent service to all our users. Our Performance Targets are:

<b>PT 1</b> – to acknowledge receipt of all new complaints and correspondence from complainants, within 5 working days of receipt (98%).	<b>Achieved (98%)</b>
<b>PT 2</b> – to deal with 90% of all correspondence received within 15 working days of receipt.	<b>Achieved (90%)</b>
<b>PT 3</b> – when a preliminary investigation is required to establish if the potential complaint is within the JACO’s remit. We will conclude this evaluation and provide a full reply within 30 working days/6 weeks, in 90% of cases.	<b>Achieved (98%)</b>
<b>PT 4</b> – when a case is ready for investigation we will aim to keep all complainants fully informed on a monthly basis in 98% of cases.	<b>Achieved (99%)</b>
<b>PT 5</b> – we will publish our performance against these indicators in our Annual Report and on our website.	<b>Achieved</b>

**Our second business objective is to continue to improve our processes and our service delivery, to ensure we deliver an effective, responsive and professional service to all our users. Our Key Performance Indicators are:**

<ul style="list-style-type: none"> <li>■ To keep our working practices under review, striving for continuous improvement, in order to deliver the best possible service to our customers.</li> <li>■ To ensure our leaflets and website are up to date and reflective of our organisation. We welcome feedback from our customers about how we could improve our service, and will learn from any complaints that we receive about our service, doing our best to put things right.</li> <li>■ To work creatively to build and maintain our capability to deliver a service that is efficient, responsive and professional. We will have the right people, processes and supporting infrastructure in place; value diversity and the importance of a work-life balance; identify and address any gaps in training and knowledge.</li> <li>■ To ensure that our staff maintain a high level of skill in Complaints Handling and Investigations.</li> </ul>	<p><b>Achieved</b></p>
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**Our third business objective is to deliver our business in the most cost effective and efficient manner, and to operate efficiently. Our Key Performance Indicators are:**

<ul style="list-style-type: none"> <li>■ To operate within our budget, and in accordance with the relevant governance arrangements managing our risks and our information and to maintain constructive working relationships with all stakeholders.</li> </ul>	<p><b>Achieved</b></p>
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<b>E: Forecast and Actual Expenditure</b>		
	<b>FORECAST</b>	<b>ACTUAL</b>
Staff costs and salaries	485,600	409,145
Office expenditure, Accommodation, Training, IT Services		
Service costs and Miscellaneous (non-COVID-19 related)	10,926	5,678
COVID-19 related Office expenditure, IT Services, Service costs and Miscellaneous	-	0
Legal costs	15,474	27,152
<b>Total expenditure</b>	<b>512,00</b>	<b>442,173</b>

<b>F: Statistical Data (Full Investigations) 2017/18 – 2022/23</b>						
<b>Financial year</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Cases determined after Full Investigation</b>	79	88	84	76	66	50
<b>Conduct</b> (JCIO, Tribunal, Advisory Committee)	8 upheld/ partially upheld 65 not upheld	24 upheld/ partially upheld 55 not upheld	17 upheld/ partially upheld 64 not upheld	17 upheld/ partially upheld 51 not upheld	12 upheld/ partially upheld 49 not upheld	14 upheld/ partially upheld 36 not upheld
<b>Appointment</b>	6 not upheld	9 not upheld	2 not upheld	7 not upheld	5 not upheld	3 not upheld
<b>JACO's Time</b> (Days per week)	2	2	2	2	2	2
<b>Staffing</b>	9 (8 FTE)	9 (8 FTE)	9 (8 FTE)	9 (8 FTE)	9 (8 FTE)	10 (9 FTE)
<b>Budget Forecast<sup>15</sup></b>	418,000	423,000	445,000	454,000	454,000	512,000
<b>Actual spend</b>	403,000	409,000	434,000	447,000	441,000	442,000

<sup>15</sup> Budget figures rounded to the nearest £1,000.

