



OJC
Office for
Judicial
Complaints

Office for Judicial Complaints

Annual Report 2010-11

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Overview from Sheridan Greenland Head of the Office for Judicial Complaints



I am pleased to present the Office for Judicial Complaints' (OJC) annual report covering the period from April 2010-March 2011. Despite an increasing workload we are completing more cases than are received and exceeding the standards set for the office, therefore reducing delay.

Use of our online complaints form continues to increase in popularity with 20% of complainants preferring to use this method to lodge their complaint, many also voluntarily completing our equality and diversity questionnaire. In addition, OJC has been considering how it can make its work more accessible for individuals using its services. OJC has trained all staff in use of plain English and has reviewed how letters are worded. In the coming year we hope people involved with cases will find it easier to understand what actions were taken and what the decision was.

OJC was one of the "Arms Length Bodies" reviewed by the Ministry of Justice this year. The review recommended that OJC should become part of Judicial Office, operating independently in its disciplinary investigation role. This is because it could then influence improvement through improved links with the organisation that supports the judiciary. This was accepted by the Lord Chancellor and Lord Chief Justice. In January 2011 OJC became part of the Judicial Office. OJC's office base has changed to Steel House.

Ethical boundaries and processes are in place to ensure the confidentiality of complaints investigation. Case files are kept securely in a pass protected part of the building and our case management system is entirely separate from any other part of the business for example. Anonymised information can be provided to those responsible for improving the way the judiciary operate. If an investigation highlights something that has gone wrong, the Judicial College can be notified and can then consider how relevant training can be given; or the Judges' Council, through its Welfare and Conduct sub-committee, can consider improvements in welfare support or any amendments required to the "Guide for Judicial Conduct".

A summary of OJC's performance against business plan targets for 2010-11 and a copy of the OJC's online diversity evaluation survey can be viewed on our website at the following address: <http://judicialcomplaints.judiciary.gov.uk/publications.htm>

S J Greenland

Performance summary

This report summarises key issues and performance within the Office for Judicial Complaints (OJC) from April 2010-March 2011. Wherever possible data from this and previous years is shown so that a comparison can be made and a rolling data set can be considered.

Complainants are now receiving much faster responses to their complaints. I am pleased to report that all the key performance indicators have been exceeded. 96% of acknowledgements were sent within two days, meeting the revised stretch target of 95% for 2010-11. First responses were sent within 15 days in 94% of cases against a target of 85%. The 28 day updating target for both complainants and judicial office-holders was achieved in 89% of cases once again exceeding the performance target. In 79% of cases complainants were informed of the outcome of their complaint within 90 working days of the complaint being received. All 76 Ministers Cases were responded to within 10 days. This considerable and sustained performance improvement reflects the continuing process improvements made within the office using "LEAN" methodology to make the best possible use of resources.

At the end of the year OJC caseworkers were investigating 239 active cases. This should be viewed in the context of 7,659 complaints received since OJC came into existence in April 2006. Many complainants contacted OJC because they disagreed with a judge's decision or they thought the judge had made a legal error. OJC could not help them as these are not examples of judicial misconduct. Judicial decisions can only be overturned through an appeal, not a misconduct complaint.

There are 3,600 members of the full and part-time courts judiciary, approximately 29,000 magistrates and 7,000 tribunals judges and members. The 106 occasions during the year, where misconduct required a disciplinary sanction of any kind, are in proportion very low. 29 judicial office-holders were removed from office, 22 of these were magistrates, some removed for being unable to fulfil their judicial commitments.

My thanks go to all OJC's committed staff who have continued to work hard to improve service this year.

Complaints received

The following pages provide a statistical overview of the main areas of work we have undertaken during the reporting period.

Number of complaints received

During the reporting period this office received 1,638 judicial office-holder complaints, a slight increase of 4% over the 1,571 complaints received during the previous year. However, the vast majority of complaints received, 1,046 (64%) related to judicial decisions or judicial case management and not to judicial misconduct. The OJC has no power to deal with complaints regarding judicial decisions which must be pursued, as appropriate, through the court process. 239 complaints were being investigated at the end of the reporting period.

Number of enquiries received

An enquiry is defined as a request for information about what the OJC does and the types of complaint it can deal with (not including information provided in telephone calls).

- The OJC received 864 enquiries during the reporting period compared with the 813 received during 2009-2010. An increase of 6% on the previous year.

Type of judicial office-holder complained about

The table below sets out the distribution of complaints in relation to judicial office-holders received during the reporting period, where the type of judicial office-holder is identified by the complainant or readily identifiable by the OJC.

Where a complaint relates to a judicial decision or clearly does not fall within our remit, we do not usually undertake an investigation to establish the judicial office held by the subject of the complaint. However, if the complainant provides this information we do record it.

Judicial office held	Number
Court of Appeal	41
Court of Protection	10
High Court	84
Circuit Bench	397
Coroner	35
District Bench	661
Magistrate*	64
Tribunals (combined)*	21
Not defined	325
Total	1,638

* In the case of magistrates and tribunals judiciary (except presidents) the Local Advisory Committee or Tribunal President conducts the initial investigation so these figures do not reflect the total number of complaints relating to magistrates and tribunals. If a disciplinary sanction is then recommended:

- for magistrates, such cases are then forwarded to the OJC
- for tribunal members and judicial office-holders, rules define the circumstances in which action can be taken at local level; by the Senior Tribunal President; or when referral to the Lord Chancellor or relevant Chief Justice is required.

Members of the OJC staff review the findings of Advisory Committees and the recommendations made by Tribunals Chambers Presidents for consistency and prepare advice for consideration by the Lord Chancellor and Lord Chief Justice.

Type of complaint lodged

Type of complaint	Number of complaints
Motoring offences	1
Conflict of interest	8
Misuse of judicial status	9
Professional conduct	10
Miscellaneous	14
Not specified	16
Criminal or other court proceedings/convictions	24
Discrimination	24
Not fulfilling judicial duty	30
Inappropriate behaviour/comments	456
Judicial decision or case management	1,046
Total	1,638

The table below shows the outcomes associated with the 1,638 complaints received during 2010-2011 at the time of writing.

Outcome	Number
Open cases still under consideration	233
Dismissed under Regulation:	
14(1)(a) Complaint not adequately particularised	90
14(1)(b) Complaint is about judicial decision or case management decision	827
14(1)(c) Action complained of was not done by a judicial office-holder	27
14(1)(e) Complaint is without substance or if substantiated would not require disciplinary action	60
14(1)(f) Complaint is untrue, mistaken or misconceived	116
14(1)(h) Complaint is about a person who no longer holds judicial office	7
14(1)(j) Complaint is about the professional conduct, in a non-judicial capacity, of a judicial office-holder and could not reasonably be considered to affect his suitability to hold judicial office	3
14(1)(k) For any other reason, not specified in the Regulations, the complaint does not relate to misconduct by a judicial office-holder	3
Not applicable*	114
Complaint not upheld by the Lord Chancellor & Lord Chief Justice following an investigation	20
Dismissed under Regulation 4 (the complaint is made out of time)	17
Upheld**	121
Total	1,638

* Complaints recorded as dismissed under this category include those complaints received by the OJC but which do not fall to the OJC to investigate e.g. complaints about tribunal judges, magistrates or court staff.

** The number of “upheld” complaints shown in this table will differ from that reported elsewhere in the report as it includes multiple complaints made about single judicial office-holders. If the complaint was upheld, each individual complaint will be recorded in the table above but only one ‘outcome’ would be recorded in the table on the following page.

Disciplinary outcomes by judicial office

The table below shows the total number of cases, finalised in the year 2010-11, where the Lord Chancellor and Lord Chief Justice have taken disciplinary and other action. Press releases are issued in cases where the judicial office-holder was removed from office. These and other press releases issued can be found on the OJC's website (www.judicialcomplaints.gov.uk). A full breakdown showing the types of complaint leading to particular disciplinary sanctions, on an annual basis since 2008 appears at Annex A.

	Courts judiciary	Coroners	Magistrates	Tribunals	Total
Guidance issued	8	1	0	3	12
Warning	0	0	1	0	1
Formal advice	4	0	6	1	11
Reprimand	3	0	24	1	28
Removal	0	1	22	6	29
Resignation	2	0	18	5	25
Total	17	2	71	16	106

Timeliness

Acknowledge letters within two working days of receipt – target for 2010-11 = 95%

- Target met. 2,431 acknowledgement targets fell within the reporting period. In 2,338 cases (96%), the two working day target was achieved.

Providing an initial response to complainants within 15 days of receiving a complaint or enquiry – target for 2010-11 = 85%

- Target met. The 15 day target was met in 2,230 of 2,373 cases (94%), once again exceeding the target.
- This target applies to all complaints which are received directly from members of the public, it does not relate to complaints that have been referred to the OJC from an Advisory Committee or Tribunal, which follow a different process of referral to the Lord Chancellor and Lord Chief Justice.

Reporting period	Total number	Performance
Apr-Jun 2010	537 of 598	90%
Jul-Sep 2010	621 of 648	96%
Oct-Dec 2010	521 of 550	95%
Jan-Mar 2011	551 of 577	95%
Full year figure	2,230 of 2,373	94%

- The 15 day target is used to record the first detailed response given to the complainant or where a holding reply has been sent out if the caseworker assesses that further enquiries need to be made. In some cases this will involve writing to the judicial office-holder for permission to release the court recordings or approaching third parties for statements.
- Where the complainant discloses no issues that require investigation, it may be possible to close the complaint in this period and send a letter summarising the issues complained about and why it is being dismissed.

Cases completed within 90 days of receipt

- As a benchmark of performance OJC guidance is to seek to deal with complaints within three months (90 days) and this was achieved in 79% of cases. The Senior Management Team has been analysing, on an individual basis, all cases over 90 days old in order to ensure that appropriate case management is in place and that there are justifiable reasons for the case to have exceeded this benchmark. This is expressed as an aspiration rather than a binding target, as whilst a proportion of cases can be considered in 90 days, the wide range of circumstances of individual cases, particularly those where a judicial investigation or Review Body takes place following the judicial office-holder's initial response, mean that for some cases, 90 days is unachievable.

Reporting period	Total number	Performance
Apr-Jun 2010	332 of 442	75%
Jul-Sep 2010	329 of 421	78%
Oct-Dec 2010	370 of 457	81%
Jan-Mar 2011	316 of 377	84%
Full year figure	1,347 of 1,697	79%

Monthly updates to relevant parties – target for 2010-11 = 85%

- The OJC is required to provide monthly updates to the relevant parties involved in complaints, normally the complainant and the judicial office-holder. As reported earlier, some cases are completed within 15 days and a final letter is sent by then, in others, further enquiries are necessary. In a standard case, the caseworker will obtain and listen to the court audio recordings and may then be in a position to either dismiss the complaint, or alternatively, will write to the judicial office-holder for comments on issues arising.
- In more complex cases, or where no recordings exist, relevant third parties may be asked to provide statements. When the case is not completed within the 15 day response time, monthly updates are sent unless there is a fixed date for the next action e.g. a Review Body hearing date has been notified.
- In the past achievement of this target has proved elusive, but the improved case management oversight now means that this target has been met throughout the year.

Reporting period	Number of targets met	Performance
Apr-Jun 2010	741 of 826	90%
Jul-Sep 2010	780 of 857	91%
Oct-Dec 2010	765 of 857	89%
Jan-Mar 2011	553 of 633	89%
Full year figure	2,839 of 3,173	89%

Review Bodies

Review Bodies usually take place where the judicial office-holder is informed that he or she is going to be subject to disciplinary action by the Lord Chancellor and the Lord Chief Justice, and then requests that the matter be looked at again by a Review Body. A nominated judge will consider whether or not the request for review is 'totally without merit'. The Lord Chancellor and Lord Chief Justice can themselves also request a Review Body to consider a complaint and prepare a report for their consideration and will specify the aspect they wish to be considered in detail.

There are four members of a Review Body: two judicial office-holders and two lay members. Review Bodies may meet on several occasions over a period of months when considering an application, and often call witnesses to provide additional evidence.

During the year, three Review Body cases were heard.

Judicial Appointments & Conduct Ombudsman

Throughout the OJC process, complainants are advised that the Judicial Appointments & Conduct Ombudsman (JACO) exists to monitor that OJC staff are conducting complaints procedures appropriately and in accordance with the regulations.

JACO will investigate the procedures undertaken and may refer a matter back for re-investigation. JACO final reports are sent to the Lord Chief Justice and the Lord Chancellor and if a report identifies deficiencies in our procedures, we will take action to remedy the issue. JACO cannot re-determine the initial complaint.

The Ombudsman finalised 31 reports during the reporting period, one (3%) of which was fully upheld and seven (23%) of which were partially upheld. In the remaining 23 (74%) cases the Ombudsman did not uphold the complaint.

Reporting period	Number of complaints upheld or partially upheld
Apr-Jun 2010	0
Jul-Sep 2010	3
Oct-Dec 2010	5
Jan-Mar 2011	0
Full year figure	8

The most common reason for a complaint being partially upheld by the Ombudsman was delays in the OJC's investigation or in approaching potential third party witnesses, which was the sole or a contributing factor, in five of the seven partially upheld complaints. During the reporting period the OJC conducted a LEAN review of our processes and procedures to improve the quality and efficiency of our complaint handling and speed up the process where possible.

The five complaints upheld due to undue delay by the OJC amount to less than 0.5% of the total number of complaints received by OJC during 2010-11. In two partially upheld cases the Ombudsman found that the OJC failed to address issues which amounted to either a new complaint or an extension of an existing complaint, when considering correspondence submitted in support of an existing complaint or during post complaint correspondence. In another the OJC failed to refer a request for a complaint to be considered 'out of time' to the Lord Chancellor and Lord Chief Justice. A further complaint was partially upheld when the OJC failed to re-investigate a complaint, referred back by the Ombudsman, within a reasonable timeframe. The OJC has since introduced a tracking system to ensure that re-investigations are managed and handled more effectively in future.

In the one complaint which was fully upheld the Ombudsman found that the OJC had failed to acknowledge or respond to correspondence submitted by a complainant for a period of three months, after their complaint had been dismissed. OJC accepted that there had been significant failure of systems and line management in this instance and has subsequently reviewed all procedures for handling post complaint correspondence instituting a formal logging and tracking system for post complaint correspondence, more regular case review meetings and tighter line management oversight.

Staffing

At the end of the reporting period the OJC had a total of 15 staff members at work at the following grades, (one member of staff was on maternity leave and one vacancy).

Grade	Establishment	Staff at work
Senior Civil Service	1	1
Band A	3	3
Band B	2	2
Band C	2	2
Band D	7	6
Band E	2	1
Total	17	15

Sick absence data

In total there were 83 staff sick days during 2010-2011 – an average of 5.7 days per staff member at work.

Information assurance

All staff members have completed the mandatory information assurance training and refresher training.

Equality and diversity

All staff members have successfully completed the online equality and diversity training course.

Health and safety

Relevant staff have undertaken health and safety and first aid training.

Financial information

Expenditure statement

As an associated office of the Ministry of Justice (MoJ), the OJC is not required to produce its own accounts; however, our expenditure is an integral part of the MoJ's Resource Accounts, which are subject to audit.

We are committed to managing our resources efficiently and have in place sound financial governance systems.

An analysis of our budget for the year ending 31 March 2011 is set out below. 95% of expenditure relates to front line staff resources. Other running costs mainly comprise the fees and associated costs in supporting Review Bodies which take place within OJC's offices.

Expenditure	Amount
Paybill	£724,000
Other running costs	£37,000
Total	£761,000

Annex A: comparative statistics 2008-2011

Judicial office held	Number of complaints		
	2008-09	2009-10	2010-11
Court judiciary	890	1,067	1,193
District bench	(539)	(620)	(661)
Circuit bench	(244)	(334)	(397)
High Court	(81)	(84)	(84)
Court of Appeal	(23)	(24)	(41)
Court of Protection	(3)	(5)	(10)
Magistrate	72	70	64
Coroner	20	36	35
Tribunals	15	7	21
None defined	342	391	325
Total	1,339	1,571	1,638

- In 2008 the rules for both tribunal and magistrates complaints were amended emphasising that issues should be addressed locally by Tribunal Presidents and Local Advisory Committees in the first instance and only referred to OJC if a disciplinary sanction is recommended. The figures for number of complaints made against magistrates and tribunal members do not therefore reflect the total number of complaints made.
- The figures above reflect the total number of complaints received by OJC, including those which are ultimately dismissed as relating to judicial decisions or case management issues.

Nature of complaints received

Type of complaint	Number of complaints		
	2008-09	2009-10	2010-11
Conflict of interest	18	19	8
Criminal or other court proceedings/convictions	6	14	24
Discrimination	36	83	24
Inappropriate behaviour/comments	328	422	456
Judicial decision/case management	799	924	1,046
Miscellaneous	84	33	14
Misuse of judicial status	8	9	9
Motoring offences	7	9	1
Not fulfilling judicial duty	28	27	30
Not related to judicial office-holder	0	2	0
Not specified	0	19	16
Professional conduct	25	10	10
Total	1,339	1,571	1,638

Drivers that led to disciplinary outcomes

	2008-09					2009-10					2010-11			
	AWG	Rep	Rem	Sus	Res	AWG	Rep	Rem	Sus	Res	AWG	Rep	Rem	Res
Criminal/other court proceedings	1	0	1	0	7	1	1	5	1	6	0	2	5	3
Not fulfilling judicial duty	0	1	10	0	5	7	1	12	0	3	1	3	9	4
Failure to report potential disciplinary matter	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Inappropriate behaviour/ comments	15	13	8	0	6	15	4	6	0	4	15	19	7	15
Misuse of judicial status	0	1	2	0	0	0	3	0	0	2	4	2	1	2
Motoring offences	1	6	2	1	0	6	1	1	0	2	1	1	2	0
Professional conduct	1	1	1	0	1	0	1	3	0	1	3	1	5	1
Discrimination	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conflict of interest	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Total	18	22	24	1	19	29	11	28	1	18	24	28	29	25

AWG: Formal advice/warning/guidance

Rep: Reprimand

Rem: Removal

Sus: Suspension

Res: Resignation

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